

Public Document Pack

Date of meeting Tuesday, 13th March, 2018
Time 7.00 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 – OPEN 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 - 30)
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 - 1976** (Pages 31 - 40)

SRH

- 7 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 41 - 50)
1976**

TT

- 8 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 51 - 72)
1976**

UBL

- 9 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 73 - 86)
1976**

Driver – Mr TMH

- 10 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 87 - 110)
1976**

Driver - Mr FH

- 11 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 111 - 120)
1976**

Driver – Mr MHR

- 12 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 121 - 130)
1976**

Driver – Mr MB

- 13 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 131 - 148)
1976**

Driver – Mr SKM

- 14 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 149 - 160)
1976**

Driver – Mr RT

- 15 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 161 - 180)
1976**

Driver – Mr MN

- 16 **PAYING STRAY DOG FINES (Pages 181 - 182)**

- 17 **NATIONAL DATABASE OF TAXI LICENCE REFUSALS AND
REVOCATIONS (Pages 183 - 186)**

- 18 **URGENT BUSINESS**

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

Members: Councillors Bloor, Dymond, L Hailstones, P Hailstones, S Hambleton (Chair), Matthews, Olszewski, Robinson, Spence, J Tagg, Walklate, P Waring and G 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.

NOTE: THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY FOLLOWING THE FIRE EXIT SIGNS. PLEASE **DO NOT** USE THE LIFTS.

COUNCIL CHAMBER: FIRE EXITS ARE AT THE REAR OF THE CHAMBER AT BOTH SIDES AND THIS IS THE SAME FOR OCCUPANTS OF THE PUBLIC GALLERY.

COMMITTEE ROOMS: EXIT VIA THE WAY YOU ARRIVED AT THE MEETING OR AT THE FAR END OF THE COUNCIL CHAMBER.

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE REAR OF THE ASPIRE HOUSING OFFICE OPPOSITE THE CIVIC OFFICES. DO NOT RE-ENTER THE BUILDING UNTIL ADVISED TO DO SO.

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

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

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GUIDANCE NOTES

NATURAL JUSTICE AND FAIRNESS

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

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

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

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

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

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

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

THE RULE AGAINST BIAS

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

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

There are two broad categories of bias:

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

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

GUIDANCE NOTES

HUMAN RIGHTS ACT 1998

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

Rights and Freedoms to be considered when determining matters

ARTICLE 6: RIGHT TO A FAIR TRIAL

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

ARTICLE 8: RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

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

ARTICLE 10: FREEDOM OF EXPRESSION

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

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

ARTICLE 14: PROHIBITION OF DISCRIMINATION

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

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

ARTICLE 1: OF THE FIRST PROTOCOL PROTECTION OF PROPERTY

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

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

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



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

GENERAL POLICY

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

(a) Dishonesty

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

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

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

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

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

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

(b) Violence

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

In particular:-

- (i) An application will normally be refused where the applicant has a conviction for an offence of:-
 - Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Or similar offence or offences which replace the above offences

- (ii) An application will normally be refused for a period of five years from the date of the conviction or the date of release from jail, where a custodial sentence has been imposed if the applicant has a conviction for:-
 - Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Assault occasioning actual bodily harm which is racially aggravated

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

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

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

(c) Drugs

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

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

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

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

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

(d) Sexual and Indecency Offences

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

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

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

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

(e) Motoring Convictions

(i) Disqualification

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

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

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

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

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

(ii) Serious Traffic Offences

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

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

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

(iii) Other Traffic Offences

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

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

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

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

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

(g) Drunkenness

(i) In a Motor Vehicle

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

(ii) Not in a Motor Vehicle

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

(h) Spent Convictions

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

(i) Formal Cautions and Fixed Penalty Notices

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

SERIOUS TRAFFIC OFFENCES

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

PLEASE NOTE:

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

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

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

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

PLEASE NOTE:

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

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

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

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

OTHER TRAFFIC OFFENCES

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

PLEASE NOTE:

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

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

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

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

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PUBLIC PROTECTION COMMITTEE

Monday, 22nd January, 2018

Time of Commencement: 7.00 pm

Present:-	Councillor Sandra Hambleton – in the Chair
Councillors	Bloor, Dymond, L Hailstones, P Hailstones, Matthews, Olszewski, Proctor, Robinson, Spence, J Tagg and Walklate
Officers	Nesta Barker - Head of Environmental Health Services, Jayne Briscoe - Democratic Services Officer, Matthew Burton and Paul Washington - Principal Solicitor

1. DECLARATIONS OF INTEREST

There were no declarations of interest stated.

2. APOLOGIES

An apology was received from the Vice Chair Councillor G White

3. MINUTES OF PREVIOUS MEETING

Resolved: That the minutes of the meeting held on 8 November 2017 be agreed as a correct record.

4. DISCLOSURE OF EXEMPT INFORMATION

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

5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding a new application for a Private Hire Vehicle Licence by Mr PW which involved a departure from Council policy.

Mr PW was given the opportunity to address the Committee.

Resolved: That the application submitted by Mr PW be approved.

6. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding a Hackney Carriage Vehicle Licence application held by Mr AHB.

Mr AHB was accompanied by a legal representative who addressed the Committee.

Resolved: That the decision taken by the Chair and Vice-Chair, to revoke the Hackney Carriage Licence be endorsed.

7. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding a Private Hire Drivers Licence held by Mr TK.

Mr TK was accompanied by a legal representative who addressed the Committee.

Resolved: That the decision taken by the Chair of the Committee to revoke the Private Hire Drivers Licence be endorsed.

8. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding Mr MA's application to renew his Dual Drivers Licence.

Mr MA was given the opportunity to address the Committee.

Resolved: That, due to the conditions of the probationary period not being fulfilled, the application to renew the Dual Driver's Licence be refused.

9. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

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

Mr PT was accompanied by a representative who addressed the Committee.

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

10. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding a new Dual Driver's Licence application by MR WA.

Mr WA was given the opportunity to address the Committee.

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

11. 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 YHG.

Mr YHG was given the opportunity to address the Committee.

Resolved: That the application submitted by Mr YHG be refused due to the nature of the convictions which indicated a pattern of breach of regulatory provisions and a disregard for the law.

12. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding an application for renewal of a Dual Hackney Carriage and Private Hire Vehicle Drivers Licence by Mr ZI.

Mr ZI was given the opportunity to address the Committee.

Resolved: That the application submitted by Mr ZI be refused due to the number and nature of the convictions which indicated a pattern of breach of regulatory provisions together with the none notification of the offences in breach of licence conditions.

13. TAXI SCHEME OF DELEGATION

Consideration was given to a report to amend and approve the scheme of delegation in respect of taxi and private hire licensing.

Resolved: That the proposed amendments to the scheme of delegation be supported and recommended to Council for approval.

14. TAXI LICENSING FEES AND CHARGES 2018-19

Consideration was given to a report regarding the fees to be charged in relation to the licensing of Private Hire and Hackney Licensing for 2018/19.

Resolved: That the fees to be charged for the licensing of Private Hire and Hackney Carriage Licensing be agreed.

15. APPEAL OUTCOME

Members were advised of the outcome of an appeal, heard by Newcastle-under-Lyme Magistrates, by Mr Miah which was dismissed.

Resolved: That the report be noted.

16. PROSECUTION OUTCOME

Members were informed of the outcome of prosecution proceedings for failure to comply with a Noise Abatement Notice against Ms Mason.

Resolved: That the report be received.

17. **URGENT BUSINESS**

There was no Urgent Business.

COUNCILLOR SANDRA HAMBLETON
Chair

Meeting concluded at 9.50 pm

PUBLIC PROTECTION COMMITTEE

Tuesday, 30th January, 2018

Time of Commencement: 7.00 pm

Present:- Councillor Sandra Hambleton – in the Chair

Councillors Dymond, L Hailstones, P Hailstones, Matthews, Olszewski, Proctor, Robinson, J Tagg, Walklate and P Waring

Officers Nesta Barker - Head of Environmental Health Services, Matthew Burton, Geoff Durham - Member Training and Development Officer and Paul Washington - Principal Solicitor

Apologies Councillor(s) Spence and G White

1. **GUIDANCE NOTES (FOR INFORMATION)**

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

3. **APOLOGIES**

Apologies were received from Councillors' Spence and White.

4. **DISCLOSURE OF EXEMPT INFORMATION**

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

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

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

Mr MH was accompanied by his wife but addressed the Committee himself.

Resolved: That, in view of the nature and seriousness of the offences, the Committee, having considered those circumstances and taken into account its policy guidelines concluded that Mr MH was not a fit and proper person to hold a dual drivers licence and, refused the application.

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

The applicant had requested that this application be deferred until the March, 2018 meeting.

7. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding a number of incidents involving Mr SHK.

Mr SHK was given the opportunity to address the Committee.

Resolved: That, in view of the number and nature of convictions, the Committee, having considered those circumstances and taken into account its policy guidelines, revoked Mr SHK's Dual Driver's Licence.

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 Driver's Licence by Mr BAM

Mr BAM was accompanied by a legal representative who addressed the Committee.

Resolved: That the application submitted by Mr BAM be approved for a limited period of twelve months but that a written warning be issued as to his future conduct. After twelve months and subject to no further offences, Mr BAM could apply for a full licence.

9. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

Members were advised that this application would be deferred to the march, 2018 meeting due to non-payment of the fee.

10. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding an application for a Private Hire Operators Licence which fell outside of the Council's Taxi Policy.

The applicant was accompanied by a legal representative who addressed the Committee.

Resolved: That, a Private Hire Operators Licence be granted retrospectively but that a written warning be issued as to the situation not arising again.

11. ENVIRONMENTAL PROTECTION ACT 1990, SECTION 33 , 34 AND 34(2A)

A report was submitted advising the Committee of action taken in respect of a fly tipping offence within the Borough and seeking authorisation to institute legal proceedings.

Resolved: That subject to review by the legal section, legal proceedings be instituted.

12. CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005. FIXED PENALTY NOTICES

The committee considered a report advising of action taken in respect of littering offences and seeking authorisation to institute legal proceedings.

Resolved: That legal proceedings be instituted in relation to the cases detailed in the report.

13. **URGENT BUSINESS**

There was no Urgent Business.

COUNCILLOR SANDRA HAMBLETON
Chair

Meeting concluded at 8.35 pm

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Agenda Item 7

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Agenda Item 16

<u>HEADING</u>	Paying Stray Dog Fines
<u>Submitted by:</u>	Head of Environmental Health Services
<u>Portfolio:</u>	Operational
<u>Ward(s) affected:</u>	All

Members received a report on 21st September 2017 and deferred the matter to a future meeting. Upon further review the report has been withdrawn.

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<u>HEADING</u>	National database of taxi licence refusals and revocations.
<u>Submitted by:</u>	Mrs Nesta Barker – Head of Environmental Health Services
<u>Portfolio:</u>	Finance & Resources
<u>Ward(s) affected:</u>	All

Purpose of the Report

To advise Committees of the development of a national database of hackney or private hire drivers or dual drivers licence refusals, suspensions and revocations.

Recommendations

That members note the development of national database of taxi driver licence refusals, suspensions and revocations.

and

That approval is given for participation in the national database.

Reasons

The new register will allow councils to record details of where a hackney or private hire drivers or dual drivers licence been refused, suspended or revoked and allow local authorities to check new applicants against the register.

1. **Background**

- 1.1 The development of a national register is an important step to tackling the issue of individuals making applications to different licensing authorities following a refusal or revocation.
- 1.2 At the moment, if drivers do not disclose information about a previous revocation or refusal of a licence, there is often no way for the council to find this information out. This means that vital intelligence about an applicant's past behaviour could be missed and an individual might be able to get a new licence in another area, despite having their licence refused or revoked elsewhere.
- 1.3 The Local Government Association (LGA) has commissioned the National Anti-Fraud Network (NAFN) to develop and host the register. NAFN is a shared service, hosted by Tameside council, which supports public authorities to tackle fraud and share intelligence. NAFN have been working with the LGA and a user group comprised of licensing officers from a number of local authorities to develop the register.
- 1.4 Licensing authorities will be responsible for adding basic details of drivers who have had applications for a licence either refused, revoked or suspended. The intention is that when a licensing authority receives an application for a licence, the applicant's details will be run through the register to confirm that there is no record of them having being revoked or refused elsewhere. Details contained on the register will be limited to information that will help to identify an individual to a certain degree of accuracy, but will not give a reason why actions were taken. It will be up to individual authorities to follow up on any searches which come back with a match.
- 1.5 The national register of revocations and refusals was commissioned by the LGA as a voluntary register intended to tackle an issue that undermines public safety and confidence and, however unfairly, harms the reputation of local government.

- 1.6 A Private Members Bill tabled by Daniel Zeichner MP aimed to build on the LGA's work, effectively putting a statutory duty on licensing authorities both to share information about licences they have revoked, refused or suspended on a register, and to check the register in respect of every new and renewal application. Unfortunately, this Bill was unsuccessful and fell during its second reading in Parliament on 2 February 2018.

2. **Issues**

- 2.1 The register is due to go live in April 2018.
- 2.2 Access to the register will be free for existing NAFN members. The council is not a member, so would need to join to participate in this initiative.
- 2.3 The LGA has confirmed that this cost would be a legitimate cost to be included in the Local Authority licensing fee.

3. **Proposal**

- 3.1 That members note the development of national database of taxi licence refusals, suspensions and revocations.
- 3.2 That approval is given for participation in the national register.

4. **Reasons for Preferred Solution**

- 4.1 The national database will enable a full history for new drivers to be obtained for consideration of their application for a licence.
- 4.2 The national database will assist eliminating or reducing the issue of individuals making applications to different licensing authorities following a refusal or revocation.

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

- 5.1 In line with the Council's objectives –
- Promoting a cleaner, safer and sustainable Borough

6. **Legal and Statutory Implications**

- 6.1 Participation in the national database is voluntary. There are currently no statutory requirements for the Local Authority to participate.

7. **Equality Impact Assessment**

- 7.1 No differential equality impacts have been identified.

8. **Financial and Resource Implications**

- 8.1 To participate, the Council would need to become a member of the NAFN at a cost of £1000 per annum, plus estimated costs of £200-400 per annum to undertake additional specific vehicle enquiries.
- 8.2 These costs can be included in fees and charges, the fees and charges for 2018/19 have already been set. These are however calculated on a rolling 3 year basis, so can be included in 2019/20 fees.
- 8.3 At current licence numbers, this would equate to between £1.15 and £1.35 per licence.
- 8.4 There would be additional staff resource in both checking the register for all new applications and uploading information for any refusals, revocations or suspensions undertaken. This would be met from existing resource.
- 8.5 There would also be additional staff resource in following up any matches on the database with individual authorities to determine the reasons why the individual is listed on the register. It is anticipated that this will be met from existing resources.
- 8.6 The intention is that the database will be retrospectively updated with all revocations and refusals for the past 7 years. There would be additional staff resource in both checking the driver records and uploading information for any refusals, revocations or suspensions undertaken, during this time period. The time or resource for undertaking this task has yet to be quantified or identified.

9. **Major Risks**

- 9.1 There are no significant risks identified from participating in the register.
- 9.2 There are risks to the Authority, should the Council not participate in the register, and these would include:
 - a) Risk of issuing licences to drivers which have been refused or revoked at other Authorities without this knowledge.
 - b) Non-participation may increase driver applications to the Authority from those individuals that may be listed on the register.

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