

Public Document Pack

Date of meeting Wednesday, 8th November, 2017
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 – 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 APOLOGIES**
- 3 DECLARATIONS OF INTEREST**

To receive declarations of interest from Members on items included in this agenda.
- 4 DISCLOSURE OF EXEMPT INFORMATION**

To resolve that the public be excluded from the meeting during consideration of the attached report, because it is likely that there will be disclosure of exempt information as defined in paragraphs 1, 2 and 7 in Part 1 of Schedule 12A of the Local Government Act 1972.
- 5 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976** (Pages 23 - 36)

Private Hire Driver – Mr AR
- 6 CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 - FIXED PENALTY NOTICES** (Pages 37 - 38)

7 ENVIRONMENTAL PROTECTION ACT 1990, SECTION 33, 34 AND 34(2A) (Pages 39 - 40)

Ms JC

8 ENVIRONMENTAL PROTECTION ACT 1990, SECTION 33, 34 AND 34(2A) (Pages 41 - 44)

Mr SH

PART 2 - OPEN AGENDA

9 APPEAL OUTCOME MR AA (Pages 45 - 46)

10 ENVIRONMENTAL PROTECTION ACT 1990, SECTION 33, 34 AND 34(2A) (Pages 47 - 48)

11 ENVIRONMENTAL ACT 1995 - PART IV - LOCAL AIR QUALITY MANAGEMENT - ANNUAL STATUS REPORT 2017 (Pages 49 - 54)

12 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, Burch, Dymond, L Hailstones, P Hailstones, S Hambleton (Chair), Matthews, Olszewski, Robinson, Spence, J Tagg, Walklate 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 ASPITRE HOUSING OFFICE OPPOSITE THE CIVIC OFFICES. DO NOT REENTER THE BUILDING UNTIL ADVISED TO DO SO.

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

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

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GUIDANCE NOTES

NATURAL JUSTICE AND FAIRNESS

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

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

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

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

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

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

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

THE RULE AGAINST BIAS

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

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

There are two broad categories of bias:

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

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

GUIDANCE NOTES

HUMAN RIGHTS ACT 1998

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

Rights and Freedoms to be considered when determining matters

ARTICLE 6: RIGHT TO A FAIR TRIAL

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

ARTICLE 8: RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

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

ARTICLE 10: FREEDOM OF EXPRESSION

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

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

ARTICLE 14: PROHIBITION OF DISCRIMINATION

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

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

ARTICLE 1: OF THE FIRST PROTOCOL PROTECTION OF PROPERTY

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

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

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



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

GENERAL POLICY

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

(a) Dishonesty

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

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

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

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

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

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

(b) Violence

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

In particular:-

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

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

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

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

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

(c) Drugs

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

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

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

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

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

(d) Sexual and Indecency Offences

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

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

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

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

(e) Motoring Convictions

(i) Disqualification

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

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

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

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

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

(ii) Serious Traffic Offences

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

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

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

(iii) Other Traffic Offences

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

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

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

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

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

(g) Drunkenness

(i) In a Motor Vehicle

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

(ii) Not in a Motor Vehicle

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

(h) Spent Convictions

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

(i) Formal Cautions and Fixed Penalty Notices

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

SERIOUS TRAFFIC OFFENCES

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

PLEASE NOTE:

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

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

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

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

PLEASE NOTE:

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

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

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

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

OTHER TRAFFIC OFFENCES

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

PLEASE NOTE:

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

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

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

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

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

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APPEAL OUTCOME MR ABDUL AWAL

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 Abdul Awal's appeal to the Magistrates Court of Public Protection Committees decision to revoke his Hackney Carriage Drivers Licence.

Recommendations

That the report be received.

1. Background

- 1.1 On 9th May 2017, Public Protection committee considered Mr Awal's hackney carriage drivers licence (reference 006683), following notification of a conviction that falls within the Council's guidelines.
- 1.2 The notification revealed a conviction on 9th February 2017 for plying for hire without a licence and no insurance.
- 1.3 Committee resolved that due to the nature of the offences the Committee saw no reason to depart from its policy and agreed that Mr Awal's licence should be revoked.

2. Issues

- 2.1 All drivers have the right to appeal the decision, to the Magistrates court, Mr Awal lodged an appeal against the decision and the matter was heard at Newcastle-under-Lyme Magistrates court on 18th September 2017. Mr. Awal attended and was represented.
- 2.2 After hearing evidence from Mr. Awal, his representative and submissions from the Council, the Magistrates decided to dismiss Mr. Awal's appeal. They said that due to the nature of the convictions they saw no reason to overturn the Council's decision to revoke Mr. Awal's licence.
- 2.3 The magistrates also ordered that Mr. Awal should pay the Council's costs of £900.

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 9th May 2017.

Environmental Protection Act 1990, Section 33 , 34 and 34(2A)

Submitted by **Head of Environmental Health Services**

Portfolio **Operational**

Ward(s) affected **All**

Purpose of the Report

To advise the Committee of the action taken in respect of a Fly Tipping offence within the Borough.

Recommendations

That the report be received

Reasons

Consistent enforcement is needed to challenge people who choose to ignore the law and commit environmental crime throughout the Borough.

1. **Background**

- 1.1 On the 27 March 2017, a complaint was received of a fly-tipping incident at Oaklea Court, Bignall End Road, Newcastle under Lyme. The investigation revealed evidence leading the officer to an address at Woodlands Road, Stoke on Trent.
- 1.2 The officer identified the occupant of Woodlands Road, as Mrs Stechly who stated that she was the individual that had deposited the waste.
- 1.3 Mrs Stechly stated that she had taken the waste to the incinerator at Sideway, Stoke on Trent, but unfortunately the facility was closed. Later on that day the smell from the waste became very strong and she took it from the vehicle and placed it at the entrance to Oaklea Court.
- 1.4 On 1st August 2017 Committee resolved to institute legal proceedings in relation to this offence.

2. **Issues**

- 2.1 On the 2nd October 2017 this matter was heard at North Staffordshire Magistrates' Court. Mrs Stechly attended the court to plead guilty. She was fined £400, £720 costs and £40 victim surcharge
- 2.2 There are large environmental, social and financial impacts associated with fly-tipping and the illegal dumping of waste. Local authorities, the Environment Agency and landowners spend more than £100 million every year tackling the

consequences of fly-tipping. This is a constant drain on Borough Council taxpayers who ultimately pay the bill.

2.3 This matter has already been reported in the local media.

3. **Policy Considerations**

3.1 There are none arising from this report.

4. **Outcomes Linked to Corporate Priorities**

4.1 Creating a cleaner, safer and sustainable Borough.

- Streets and open spaces are clean and the community have pride in the Borough and take responsibility for seeing that it is clean and pleasant by reducing waste.
- The community is not put at risk from pollution or environmental hazards.

5. **Legal and Statutory Implications**

5.1 The Environmental Protection Act 1990 and Clean Neighbourhood and Environment Act 2005 place duties on the Council and provide powers.

6. **Equality Impact Assessment**

6.1 There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

7.1 The Council were awarded costs during the court proceedings.

8. **Major Risks**

8.1 Non payment

There are none arising from this report.

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<u>REPORT TITLE</u>	Environment Act 1995 – Part IV Local Air Quality Management – Annual Status Report 2017
<u>Submitted by:</u>	Environmental Protection Team Manager – Darren Walters
<u>Portfolio:</u>	Operational
<u>Ward(s) affected:</u>	ALL

Purpose of the Report

To advise Committee of the findings of the statutory Annual Status Report (ASR) for 2017 which covers the 2016 calendar year in respect of air quality within the Borough

Recommendations

That the report be received

1. Background

- 1.1. Local authorities in the UK have statutory duties for managing local air quality under [Part IV of the Environment Act 1995](#). District Councils have been required to review and assess air quality within their areas since 1997 for compliance against a range of pollutant objectives.
- 1.2. The Council has been carrying out reviews of air quality since December 1997; these involve measuring air pollution and trying to predict how it will change over the next few years. The review process aims to make sure that the national air quality objectives prescribed in the Air Quality Regulations http://uk-air.defra.gov.uk/assets/documents/National_air_quality_objectives.pdf will be achieved throughout the UK by the relevant deadlines. These objectives have been put in place to protect people's health and the environment.
- 1.3. Nationally, air pollution is estimated to reduce the life expectancy of every person in the UK by an average of 7-8 months with estimated equivalent health costs of up to £20 billion each year." (Source *The Air Quality Strategy for England, Scotland, Wales and Northern Ireland (Volume 1)*, HMSO, 2007).
- 1.4. The World Health Organisation, estimates that poor air quality within the UK costs the economy circa £54 billion which is equivalent to 3.7% of British GDP (based on 2010 data). It also accounts for 29,000 premature deaths annually. (Source: WHO Regional Office for Europe, OECD (2015). Economic cost of the health impact of air pollution in Europe: Clean air, health and wealth. Copenhagen: WHO Regional Office for Europe. <http://www.euro.who.int/en/media-centre/events/events/2015/04/ehp-mid-term-review/publications/economic-cost-of-the-health-impact-of-air-pollution-in-europe>)
- 1.5. Local authorities therefore have an important role in bringing about improvements in air quality and ensuring compliance with statutory requirements to reduce the impact on health and associated costs to the National Health Service and the wider economy
- 1.6. The findings of the previous reviews and assessments undertaken by your Officers were last reported to committee in November 2016.

2. Issues

Annual Status Report 2017 (ASR)

- 2.1 In accordance with its statutory duties, the Borough Council has recently completed its Annual Status Report for 2017 which is concerned with air quality within the Borough during the 2016 calendar year. A copy of the report can be found on line at <https://www.newcastle-staffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastle-under-lyme>
- 2.2 Previous assessments have identified nitrogen dioxide as the pollutant of concern, with a number of locations within the Borough exceeding the nitrogen dioxide annual mean objective.
- 2.3 This Annual Status Report considers all new monitoring data and assesses the data against the Air Quality Strategy (AQS) objectives. It also considers any changes that may have an impact on air quality.
- 2.4 The review of new diffusion tube monitoring data has not identified any locations outside of the four existing AQMA's, declared in December 2014 within the Borough where the AQS annual NO₂ objective was exceeded in 2016.
- 2.5 Monitoring of NO₂ concentration in the Air Quality Management Areas (AQMA's) and at a variety of locations across the Borough during 2015 shows, that there has been a general decrease in NO₂, with the majority of areas now being under the annual mean objective. There are however a number of hotspots within the Town Centre and Kidsgrove AQMA's.

Town Centre AQMA

- 2.6 Air Quality in this area is influenced by local road traffic and traffic utilising the major arterial routes, which converge on the town centre. There are a number of relevant receptors located at the back of pavement. The network is heavily congested at peak times of the day with high volumes of low speed mixed traffic. The town centre is experiencing a period of regeneration with provision for developments to provide around 3000 student bed spaces over the next four years. The Civic Offices site located on the Rycroft is destined to contribute towards a significant amount of accommodation as well as providing a mixed retail / leisure development. A number of office spaces are able to covert to residential use without requiring consideration of air quality. This has resulted in significant increases in the numbers of relevant receptors within the area where the Council is unable to influence development. In addition, the rural areas of the Borough are facing increased demands for applications for residential development, with people in these areas heavily reliant on cars to access services and employment opportunities within the town centre and wider areas.
- 2.7 NO₂ concentrations have generally decreased each year from 2012 onwards within the Town Centre. In 2016 sites DTK2 (76 King Street) DT85 (106 King Street), DT 96 (52/54 London Road and site DT104 (7 King Street) produced annual nitrogen dioxide levels in excess of the annual mean objective. There are also a number of sites within 10% of the annual mean, which are at risk of exceedance in future years.
- 2.8 This AQMA will remain in place until all sites measure an annual mean NO₂ concentration that is consistently below the annual mean legal objective

Porthill-Wolstanton-Maybank AQMA

- 2.9 Air Quality in this area is influenced by local road traffic and traffic utilising the junctions associated with the A500 dual carriageway. Relevant receptors in this location are mainly located at the back of footway. The main route through the area is single carriageway with traffic lighted junctions, signal controlled crossings, on street bus stops and significant sections of on street parking. Porthill Bank and Grange Lane are on significant gradients.

- 2.10 There has been a steady decrease in NO₂ concentration at the established diffusion tube monitoring sites within this AQMA over the past 6 years, with the highest NO₂ concentration within the Porthill-Wolstanton-Maybank AQMA for 2016 being 37.7 µg/m³ at site DT24 26 High Street, Maybank.
- 2.11 Diffusion tube monitoring site 103 (Grange Lane), was reported in the last ASR as a possible exceedance based on an a three month monitoring period, however following a full calendar year of monitoring the site is showing an annual mean of 23.2 µg/m³ adjusted to the nearest receptor.
- 2.12 There are a number of works planned which may affect upon this location, this includes the Etruria Valley Development scheme, which sees changes to the Church Lane / Grange Lane junction the junction near to this site and a new access from Grange Lane into the City Centre via Etruria Valley. There are also planned improvement works by Highways England to the A500 between Wolstanton and Porthill. Both schemes are planned for delivery by 2020. They have the potential to increase traffic flow through this AQMA. Traffic modelling and the associated air quality impacts are currently being assessed by Highways England and Stoke on Trent City Council for their respective schemes. It is anticipated that this information will be available for inclusion in the next ASR due in June 2018.
- 2.13 Accordingly, the diffusion tube-monitoring network in this area will remain in place until the highway schemes have become embedded and there is confidence that NO₂ annual mean levels are consistently below the statutory objective.

Kidsgrove AQMA

- 2.14 Air Quality in this location is heavily influenced by traffic using the A34 Liverpool Road and local traffic accessing side roads from Liverpool Road within the centre of Kidsgrove. Relevant receptors are located back of footway and in close proximity to junctions and areas of congestion.
- 2.15 NO₂ concentrations have decreased each year from 2012 onwards within this AQMA. Diffusion tube Site 6 (106 Liverpool Road) produced an NO₂ annual mean of 41.8 µg/m³ and is therefore still showing an exceedance of the annual mean nitrogen dioxide objective.
- 2.16 The monitoring network The AQMA will remain in place until all sites measure an annual mean NO₂ concentration that is consistently below the annual mean legal objective.
- 2.17 Staffordshire County Council are planning a number of works in this area which area aimed at reducing congestion on Liverpool Road and hopefully this will have a beneficial effect on air quality.
- 2.18 Accordingly, the diffusion tube-monitoring network in this area will remain in place to monitor the success of the highway improvement works and until all sites measure an annual mean NO₂ concentration that is consistently below the annual mean legal limit.

Madeley AQMA

- 2.20 Air Qulaity in this location is heavily influenced by traffic using M6 motorway which runs within 20 metres of the nearest receptor at Collingwood 3 Newcastle Road.
- 2.21 The NO₂ concentration at this location in has been within 10% of the annual mean for the previous 4-year period between 2012 and 2015. N02 annual mean results at monitoring site DT3 (Collingwood 3 Newcastle Road) dropped dramatically in 2016 to 31.9 µg/m³. It is however too early to say if this is likely to remain the situation moving forward given the previous year's results.

- 2.22 Highways England are introducing smart managed motorways and hard shoulder running up to Junction 15 of the M6 (Stoke on Trent South) and from junction 16 (Stoke on Trent North and Crewe) through to junction 22. The stretch of motorway between junctions 15 and 16, which runs past experiences congestion at peak periods and may become a candidate for hard shoulder running and smart managed motorways in the future.
- 2.23 Based on the results since 2012 to present and potential future works to the M6 motorway this location will continue to be monitored for the near future.

Across the Borough of Newcastle under Lyme

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

Particulate Matter (PM₁₀ and PM_{2.5})

- 2.25 Particulate matter, or PM, is the term used to describe particles found in the air, including dust, dirt and liquid droplets. PM comes from both natural and man-made sources, including traffic emissions and Saharan-Sahel dust. These particles can be suspended in the air for long periods of time, and can travel across large distances.
- 2.26 Particulate matter (PM₁₀) is measured using an automatic monitor located at Queens Gardens (Site CM1) within the Town Centre AQMA. Particulate matter (PM₁₀) levels within Newcastle-under-Lyme, continue to be well below the annual mean objective level of 40µg/m³, with the annual mean concentration for 2016 being 26µg/m³ which is a 3.07µg/m³ increase compared with 2015 data.
- 2.27 During 2016 there were 2 days when the 24hour mean objective of 50µg/m³ was exceeded which was also the same for 2015.
- 2.28 Due to the health risk posed by PM_{2.5}, there has been a requirement since the 2016 ASR to assess PM_{2.5} concentrations. As Newcastle-under-Lyme does not currently monitor for this fraction of particulate matter, an estimation of the PM_{2.5} concentration for 2015 has been made using the national factor for PM_{2.5} and the method set out in Technical Guidance 16. The estimated concentration for PM_{2.5} for 2016 is 18.2µg/m³ which is a 2.2 µg/m³ compared with 2015 data.
- 2.29 Based on data provided by the Public Health Directorate at Staffordshire County Council, manmade PM_{2.5} is estimated cause some 60 deaths per annum for adults over 30 years of age within the Borough.
- 2.30 The Borough Council, along with the Staffordshire County Air Quality Group, is now looking at ways in which PM_{2.5} concentrations can be reduced at both a local and regional level.
- 2.31 The Borough Council, along with the Staffordshire County Air Quality Group and Staffordshire Public Health, is now looking at ways in which PM_{2.5} concentrations can be reduced at both a local and regional level.
- 2.32 **Proposed actions arising from the 2017 Annual Status Report are as follows:**
- a) Continue the current network of NO₂ diffusion tube monitoring in the District to identify future changes in pollutant concentrations;

- b) Eco-Stars
- c) Involvement with planned road improvement works to the A500 at the Grange Lane junction, with Highways England
- d) Managing planning applications pro-actively both at a County and Borough Planning level
- e) Involvement in changes to traffic light sequencing, in conjunction with Staffordshire County Highways Department
- f) Involvement with proposed changes to road layouts, with both Highways England and Staffordshire County Highways Department
- g) Promotion of Health and Wellbeing Through liaising with Public Health colleagues
- h) Developing an air quality strategy for the Borough
- i) Developing air quality action plans for the four air quality management areas
- j) Developing air quality planning guidance for developers looking to build within the Borough.
- k) Inclusion of air quality related planning policies in the new Newcastle under Lyme and Stoke and on Trent local plan (scheduled for publication 2020)

3. **Reasons for Preferred Solution**

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

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

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

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

5. **Legal and Statutory Implications**

The Council is required to produce an annual status report in partial fulfilment of its duties under Environment Act 1995. Work is also progressing on the preparation of the statutory air quality action plans for the four Air Quality Management Areas. These will be the subject of a further report to this committee.

6. **Financial and Resource Implications**

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

7. **Background Papers**

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

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