

Public Document Pack

Date of meeting	Monday, 8th October, 2012
Time	7.00 pm
Venue	Civic Offices, Merral Street, Newcastle Under Lyme, Staffordshire ST5 2AG
Contact	Julia Cleary 01782 742227

Public Protection Committee

AGENDA

PART 1- OPEN AGENDA

12 Environmental Protection Act 1990, Section 33, 34, 34(2A) - Mr MR (Pages 35 - 36)

13 Environmental Protection Act 1990, Section 33, 34, 34(2A) - Mr & Mrs LL (Pages 37 - 38)

14 Clean Neighbourhoods and Environment Act - Mr SV (Pages 39 - 40)

15 Memorandum of Understanding For Environmental Health Services (Pages 41 - 46)

16 URGENT BUSINESS

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

Members: Councillors Allport, Bailey, Hailstones, Mrs Hailstones, Mrs Heesom, Kearon, Matthews, Olszewski (Chair), Miss Olszewski (Vice-Chair), Robinson, Miss Walklate, Welsh and Mrs Williams

'Members of the Council: If you identify any personal training / development requirements from the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Committee Clerk at the close of the meeting'

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

GUIDANCE NOTES

NATURAL JUSTICE AND FAIRNESS

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

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

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

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

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

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

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

THE RULE AGAINST BIAS

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

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

There are two broad categories of bias:

- (a) Actual Bias: when the decision-maker has an economic interest in the outcome of the case (also known as a material or pecuniary interest) subject to the De Minimum doctrine;
- (b) Reasonable Apprehension: unbiased appearance is an essential part of procedural fairness. The test is whether, having regard to the circumstances, a well informed person ("reasonably informed bystander") would consider that the interest might have an influence on the exercise of the decision-maker's duties.

GUIDANCE NOTES

HUMAN RIGHTS ACT 1998

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

Rights and Freedoms to be considered when determining matters

ARTICLE 6: RIGHT TO A FAIR TRIAL

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

ARTICLE 8: RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

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

ARTICLE 10: FREEDOM OF EXPRESSION

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

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

ARTICLE 14: PROHIBITION OF DISCRIMINATION

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

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

ARTICLE 1: OF THE FIRST PROTOCOL PROTECTION OF PROPERTY

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

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

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



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

GENERAL POLICY

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

(a) Dishonesty

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

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

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

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

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

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

(b) Violence

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

In particular:-

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

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

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

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

(c) Drugs

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

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

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

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

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

(d) Sexual and Indecency Offences

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

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

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

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

(e) Motoring Convictions

(i) Disqualification

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

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

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

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

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

(ii) **Serious Traffic Offences**

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

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

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

(iii) **Other Traffic Offences**

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

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

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

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

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

(g) Drunkenness

(i) In a Motor Vehicle

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

(ii) Not in a Motor Vehicle

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

(h) Spent Convictions

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

(i) Formal Cautions and Fixed Penalty Notices

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

SERIOUS TRAFFIC OFFENCES

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

PLEASE NOTE:

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

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

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

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

PLEASE NOTE:

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

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

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

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

OTHER TRAFFIC OFFENCES

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

PLEASE NOTE:

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

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

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

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

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PUBLIC PROTECTION COMMITTEE

Tuesday 4 September 2012

Present:- Councillor M Olszewski – in the Chair

Councillors Allport, Bailey, Hailstones, Mrs Hailstones, Kearon, Matthews, Miss Olszewski, Robinson, Miss Walklate and Mrs Williams

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Mrs Heesom and Welsh.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF PREVIOUS MEETING

On page 2 of the minutes from the previous meeting the final sentence in the first paragraph of item 5 should have read:

'The Council's current Hackney Carriage Unmet Demand survey was due to expire on 2nd December 2012.'

And that the ordering of paragraphs 8 and 9 be rearranged to read:

'However, they also expressed the opinion that there was no justification to support option 4 thereby making more Hackney Carriage Drivers Licences available.'

'Having considered the report of 28 May 2012, the DFT guidance and the results of the consultation it was considered that a further Unmet Demand Survey could not be justified.'

The question was also raised as to whether there had actually been an offer from the Hackney Carriage Association to pay the full cost of the survey and if so whether this had been voted on by members of the Committee. Clarification would be sought regarding this.

4. LAW COMMISSION CONSULTATION ON REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

A report was submitted to inform the Committee of the views of their officers concerning the Law Commissions Consultation on Reforming the Law of Taxi and Private Hire Services and to seek the view of the Committee prior to submitting a return.

Members discussed the following response:

PP (3) Maintain that only motor cars (and at a later date stretch limousines subject to appropriate conditions and regulations) be restricted to the regime.

Concerns were raised by Members regarding the possible future licensing of stretch limousines and how this would be regulated especially regarding areas such as testing at the Council's depot. Members considered that any reference to stretch limousines should be removed from the response.

It was agreed that the response we changed to read:

PP (3) Maintain that only motor cars (and at a later date stretch limousines subject to testing by VOSA) be restricted to the regime.

This change would also apply to the response detailed at PP (7).

The Committee discussed PP 54 which related to the removal of the power for Licensing Authorities to limit the number of taxis.

Members raised concerns regarding whether the Council may be liable to pay compensation if the delimitation of Hackney Carriage numbers went ahead. Officers stated that there was no legal right to compensation and that as the decision had been made based upon government guidance and legislation that any compensation should be paid by the Government.

Members agreed that the recommendation be made that should compensation be granted, that it be paid out by the Government and not the Local authority.

The Committee considered the response listed as PP 67 relating to fixed penalty notices and requested that a list of offences applicable to Private Hire and Hackney Carriage drivers be provided to Members of the Committee.

In considering PP 72, the Committee considered that all appeals should still be heard by the Magistrates Court and that there was no requirement for another body.

Resolved:- That the above changes be incorporated into the reply proposed by Officers and the response submitted as part of the consultation process.

5. URGENT BUSINESS

There was no urgent business.

M OLSZEWSKI
Chair

Agenda Item 7

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

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of the Local Government Act 1972.

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CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 **FIXED PENALTY NOTICES – MARCH TO APRIL**

Submitted by Head of Environmental Health Services

Portfolio Environment and Recycling

Ward(s) affected All

Purpose of the Report

To advise the Committee of the action taken in respect of Littering offences within the Borough.

Recommendation

For Members to receive the report.

Reasons

Consistent enforcement is needed to challenge people who choose to ignore the law and the Department for Environment, Food and Rural Affairs (DEFRA) guidance states clearly that pursuing non-payment of fixed penalty notices is key to a successful penalty system. Authorities need to strive for a high payment rate to reflect this success.

1. Background

1.1 During recent patrols conducted through the town centre and borough of Newcastle-under-Lyme a number of individuals were witnessed Littering. The offenders were approached and identified. It is an offence under the Environmental Protection Act 1990 to discard litter, however to avoid a conviction in the courts offenders are given the opportunity to discharge their liability by payment of a fixed penalty. The following offenders have been issued with Fixed Penalties but failed to pay them, and on the 30 March, the 13, 23, and 27 April, 2012 at Staffordshire Magistrates Court they all received the following fines and costs with a £15 victim surcharge:

J McEnvoy	Fine £75	costs £85	victim surcharge £15
S Rigby	Fine £75	costs £85	victim surcharge £15
M Mason	Fine £75	costs £85	victim surcharge £15
D Frost	Fine £75	costs £85	victim surcharge £15
M Condylliffe	Fine £75	costs £85	victim surcharge £15
R Coxon	Fine £150	costs £85	victim surcharge £15
B Hassani	Fine £150	costs £85	victim surcharge £15
L Morris	Fine £150	costs £85	victim surcharge £15
T Morris	Fine £150	costs £85	victim surcharge £15
J Sims	Fine £150	costs £85	victim surcharge £15
E Szykowski	Fine £150	costs £85	victim surcharge £15
Z Davison	Fine £100	costs £130	victim surcharge £15
S Clarke	Fine £100	costs £130	victim surcharge £15
D Bloor	Fine £ 50	costs £130	victim surcharge £15
D Baskeyfield	Fine £100	costs £130	victim surcharge £15
D Hanley	Fine £100	costs £130	victim surcharge £15

S Freakley	Fine £100 costs £130	victim surcharge £15
D Foreman	Fine £100 costs £130	victim surcharge £15
B Harding	Fine £100 costs £130	victim surcharge £15
L Mitchell	Fine £75 costs £60	victim surcharge £15
S Burton	Fine £75 costs £85	victim surcharge £15
J Redman	Fine £50 costs £85	victim surcharge £15
M Barlow	Fine £75 costs £85	victim surcharge £15
D Latham	Fine £25 costs £85	victim surcharge £15
P Yassemedes	Fine £50 costs £85	victim surcharge £15
B Green	Fine £50 costs £85	victim surcharge £15
S Dodd	Fine £75 costs £85	victim surcharge £15
A Kowalski	Fine £75 costs £85	victim surcharge £15
P Cross	Fine £75 costs £85	victim surcharge £15
B Simons	Fine £75 costs £85	victim surcharge £15
S Hallett	Fine £75 costs £85	victim surcharge £15
A Davenport	Fine £75 costs £60	victim surcharge £15
A Thorley	Fine £75 costs £60	victim surcharge £15
S Thorley	Fine £75 costs £60	victim surcharge £15
John Oakes	Fine £75 costs £130	victim surcharge £15
C McLaughlin	Fine £75 costs £130	victim surcharge £15
M Butcher	Fine £75 costs £130	victim surcharge £15

2. Issues

2.1 Consistent enforcement is needed to challenge people who choose to ignore the law and the Department for Environment, Food and Rural Affairs (DEFRA) guidance states clearly that pursuing non-payment of fixed penalty notices is key to a successful penalty system. Authorities need to strive for a high payment rate to reflect this success.

3. Policy Considerations

There are none arising from this report.

4. Outcomes Linked to Sustainable Community Strategy and 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 Neighbourhoods and Environment Act 2005 place duties on the Council and provide powers.

6. Equality Impact Assessment

There are no differential equality impacts identified within this report.

7. Financial and Resource Implications

7.1 The Council would seek to recover costs during any court proceedings.

8. **Major Risks**

8.1 **Non payment**

The non-payment of fines would need to be considered seriously. If a non-payment culture were allowed to develop the Authority would be in disrepute with the residents and Members, undermining confidence in a service which aims to improve the quality of the environment.

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CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 **FIXED PENALTY NOTICES**

Submitted by Head of Environmental Health Services

Portfolio Environment and Recycling

Ward(s) affected All

Purpose of the Report

To advise the Committee of action taken in respect of Littering offences within the Borough and to seek authorisation to institute legal proceedings against the Fixed Penalty Notice holders listed in Appendix A.

Recommendation

That legal proceedings be instituted in the relation to the cases detailed in Appendix A.

Reasons

The Government has amended and extended the powers available to local authorities through the Clean Neighbourhoods and Environment Act 2005 (CNEA 2005), to tackle environmental crime. It contains new statutory provisions for Fixed Penalty Notices (Fines), and Litter.

1. Background

- 1.1 Officers of the Council are continually conducting litter patrols through the town centre and Borough of Newcastle-under-Lyme. The aim of the patrols being to identify any person who is throwing, dropping or depositing litter in the street or public area. It is an offence under the Environmental Protection Act 1990 to discard litter (including smoking materials or chewing gum) in this manner, however to avoid a conviction in the courts offenders are given the opportunity to discharge their liability by payment of a fixed penalty.
- 1.2 The individuals below were issued with such a penalty during May, June, July and August 2012 but have failed to make any payment to the Council. All the alleged offenders have been written to regarding the outstanding non payments, with little or no response.
- 1.3 In order to conclude these cases in a satisfactory manner authority is sought to institute legal proceedings.

2. Issues

- 2.1 Consistent enforcement is needed to challenge people who choose to ignore the law and the Department for Environment, Food and Rural Affairs (DEFRA) guidance states clearly that pursuing non-payment of fixed penalty notices is key to a successful penalty system. Authorities need to strive for a high payment rate to reflect this success.

3. Policy Considerations

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 CNEA 2005 place duties on the Council and provide powers.

6. **Equality Impact Assessment**

There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

7.1 The Council would seek to recover costs during any court proceedings.

8. **Major Risks**

8.1 **Non payment**

The non-payment of fines would need to be considered seriously. If a non-payment culture were allowed to develop the Authority would be in disrepute with the residents and members, undermining confidence in a service which aims to improve the quality of the environment.

9. **List of Appendices**

Appendix A – Fixed Penalty Notice Holders

APPENDIX A

D021747	KE
D021752	VA
D021753	HD
D021755	GH
D021756	DP
D021757	JW
D021763	SD
D021765	LH
D021767	JC
D020605	MC
D021769	SM
D021775	VO
D021777	PB
D021778	JS
D021779	GB
D021786	MK
D021793	NC
D021798	AA
D021799	ALG
D021800	RM
D021802	PL
D021805	GP
D021806	DA
D021808	DC
D021809	AS
D021815	TY
D021822	RM
D021823	CH
D021824	SO
D021825	DB
D021828	AR
D021832	CT
D021835	NW
D021836	LM
D021838	SB
D021842	AW
D021843	RB
D021844	CG
D021847	HG
D021848	JK
D021849	DR
D021852	TC
D021853	LB
D021860	JW
D021863	CD
D021866	ZL
D021869	HS
D021872	CL
D021876	DC
D021877	JS
D021878	PC
D021879	DS
D021880	DA
D021881	JH
D021882	AW
D021883	JO
D021886	LA
D021887	ZD

APPENDIX A

D021889	KV
D021890	JS
D021896	MS
D021898	MF
D021893	JW
D021899	SS
D021901	RB
D021904	SZ
D021906	JG
D021909	JW
D021911	EG
D021912	SB
D021914	TR
D021915	GG
D021916	JP
D021917	SB
D021919	GH
D021921	RA
D021922	DF
D021925	YB
D021928	SH
D021931	EM
D021934	MC
D021935	VF
D021942	MA
D021943	JK
D021944	RH
D021945	DT
61/17/3/12	MC

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

Submitted by Head of Environmental Health Services

Portfolio Environment and Recycling

Ward(s) affected All

Purpose of the Report

To advise the Committee of action taken in respect of Flytipping offences within the Borough and to seek authorisation to institute legal proceedings.

Recommendation

That legal proceedings be instituted in relation to the case mentioned below.

Reasons

A prosecution taken under sections 33 and 34 (2A) Environmental Protection Act 1990 (As amended by The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005) is in line with the Council Priority Creating a Cleaner, Greener and Safer Borough. Creating an environment where the streets and open spaces are clean and the community maintains pride in the Borough. The action should deter other persons from fly tipping within the Borough.

1. Background

1.1 A complaint was received on the 21 May 2012, alleging that waste materials had been deposited at Stadmorslow Lane, Packmoor, Newcastle under Lyme. Following examination of the waste it was established that it contained a substantial amount of household items and details of correspondence from Ms RB. Ms RB was invited for an interview at the Civic offices, but failed to attend. Extensive investigations were carried to ascertain the address details of Ms RB and a second interview was arranged. Notice of this arrangement was hand delivered to the address of Ms RB. Unfortunately Ms RB failed to attend the second interview. In order to conclude the investigation authority is sought, 'subject to legal scrutiny', to institute legal proceedings.

2. Issues

2.1 Consideration should be given to bringing a prosecution as contrary to section 33 and 34, we have reason to believe that Ms RB deposited controlled waste on the land without a waste management licence authorising such a deposit. She also failed to dispose of controlled waste otherwise than in accordance with a waste management licence. Ms RB has failed in her duty of care to secure the transfer by her of household waste produced on her property to an authorised person or to a person authorised for transport purposes. A prosecution would be taken under section 33 or 34 (2A) Environmental protection Act 1990 (as amended by The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005).

3. Policy Considerations

There are none arising from this report.

4. **Outcomes Linked to Sustainable Community Strategy and 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 places a duty on the Council and provides powers.

6. **Equality Impact Assessment**

There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

7.1 The Council would seek to recover costs during any court proceedings.

8. **Major Risks**

8.1 There are no major risks with this report.

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

<u>Submitted by</u>	Head of Environmental Health Services
<u>Portfolio</u>	Environment and Recycling
<u>Ward(s) affected</u>	All

Purpose of the Report

To advise the Committee of action taken in respect of Flytipping offences within the Borough and to seek authorisation to institute legal proceedings.

Recommendation

That legal proceedings be instituted in relation to the case mentioned below.

Reasons

A prosecution taken under sections 33 and 34 (2A) Environmental protection Act 1990 (as amended by The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005) is in line with the Council Priority Creating a Cleaner Greener and Safer Borough. Creating an environment where the streets and open spaces are clean and the community maintains pride in the Borough. The action should deter other persons from fly tipping within the Borough.

1. Background

1.2 A complaint was received on the 13 May 2012, alleging that waste materials had been deposited at Unit 9 to 10 Loomer Road, Chesterton, Newcastle under Lyme. Following examination of the waste it was established that it contained a substantial amount of household items and details of correspondence from Mr MR. Mr MR was invited for an interview at the Civic offices, but failed to attend. Mr MR was invited for a second interview, notice of this arrangement was hand delivered to the address of Mr MR. Unfortunately he failed to attend the second interview. In order to conclude the investigation authority is sought, 'subject to legal scrutiny', to institute legal proceedings.

2. Issues

2.1 Consideration should be given to bringing a prosecution as contrary to section 33 and 34, we have reason to believe that Mr MR deposited controlled waste on the land without a waste management licence authorising such a deposit. He also failed to dispose of controlled waste otherwise than in accordance with a waste management licence. Mr MR has failed in his duty of care to secure the transfer by him of household waste produced on his property to an authorised person or to a person authorised for transport purposes. A prosecution would be taken under section 33 or 34 (2A) Environmental Protection Act 1990 (as amended by The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005).

3. Policy Considerations

There are none arising from this report.

4. **Outcomes Linked to Sustainable Community Strategy and 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 places a duty on the Council and provides powers.

6. **Equality Impact Assessment**

There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

7.1 The Council would seek to recover costs during any court proceedings.

8. **Major Risks**

There are no major risks with this report.

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

Submitted by Head of Environmental Health Services

Portfolio Environment and Recycling

Ward(s) affected All

Purpose of the Report

To advise the Committee of action taken in respect of Flytipping offences within the Borough and to seek authorisation to institute legal proceedings.

Recommendation

That legal proceedings be instituted in relation to the case mentioned below.

Reasons

A prosecution taken under sections 33 and 34 (2A) Environmental Protection Act 1990 (as amended by The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005) is in line with the Council Priority Creating a Cleaner Greener and Safer Borough. Creating an environment where the streets and open spaces are clean and the community maintains pride in the Borough. The action should deter other persons from fly tipping within the Borough.

1. Background

1.1 A complaint was received on 12 March 2012, alleging that waste materials had been deposited on Park Lane, Silverdale, Newcastle under Lyme. Following examination of the waste it was established that it contained a substantial amount of household items and details of correspondence from Mr and Mrs LL. Mr and Mrs LL were invited for an interview at the Civic offices, but failed to attend. A second interview was arranged, and notice of this arrangement was hand delivered to the address of Mr and Mrs LL. Unfortunately they failed to attend the second interview. In order to conclude the investigation authority is sought, 'subject to legal scrutiny', to institute legal proceedings.

2. Issues

Consideration should be given to bringing a prosecution as contrary to section 33 and 34, we have reason to believe that Mr and Mrs LL deposited controlled waste on the land without a waste management licence authorising such a deposit. They also failed to dispose of controlled waste otherwise than in accordance with a waste management licence. Mr and Mrs LL have failed in their duty of care to secure the transfer of household waste produced on their property to an authorised person or to a person authorised for transport purposes. A prosecution would be taken under section 33 or 34 (2A) Environmental Protection Act 1990 (as amended by The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005) .

3. Policy Considerations

There are none arising from this report.

4. **Outcomes Linked to Sustainable Community Strategy and 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 places a duty on the Council and provides powers.

6. **Equality Impact Assessment**

There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

7.1 The Council would seek to recover costs during any court proceedings.

8. **Major Risks**

There are no major risks with this report.

CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 **FIXED PENALTY NOTICES**

Submitted by Head of Environmental Health Services

Portfolio Environment and Recycling

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

For Members to receive the report.

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 A complaint was received on 15 March 2012, alleging that waste materials had been deposited in Minton Street, Wolstanton, Newcastle under Lyme. Following examination of the waste it was established that it contained a substantial amount of household items and details of correspondence from Mr S Vella of Newcastle under Lyme. Mr Vella was invited for an interview at the Civic offices and under caution admitted that the items had originated from his address. He admitted loading the items into his car and leaving them in Minton Street, however he claimed that bins and black bags were already present in area and thought it was a legitimate refuse collection site.
- 1.2 Mr Vella attended the magistrates court and he pleaded guilty to the offence under Section 34 of the Environmental Protection Act of failing to properly dispose of household waste. Mr Vella apologised he received a fine of £380 with a victim surcharge of £15 and costs were awarded in the sum of £275.

2. Issues

- 2.1 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.

3. Policy Considerations

There are none arising from this report.

4. **Outcomes Linked to Sustainable Community Strategy and 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 CNEA 2005 place duties on the Council and provide powers.

6. **Equality Impact Assessment**

There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

The Council were awarded costs during the court proceedings.

8. **Major Risks**

8.1 **Non payment**

There are none arising from this report.

MEMORANDUM OF UNDERSTANDING FOR ENVIRONMENTAL HEALTH SERVICES

Submitted by: Nesta Henshaw – Head of Environmental Health

Portfolio: Environment & Recycling

Ward(s) affected: All Wards

Purpose of the Report

To advise of a joint memorandum of understanding for Environmental Health services for Staffordshire and Shropshire Authorities.

Recommendation

That Committee receives the report, endorses the memorandum of understanding and gives delegated authority to the Head of Environmental Health Services to sign and enter into the agreement.

Reasons

Staffordshire and Shropshire Chief Environmental Health Officers Group have developed a memorandum of understanding to assist in providing resilience and resources for service delivery across the region.

1. Background

- 1.1 Throughout the County many Environmental Health services have been reviewed and restructured, in order to make efficiency savings in response to the Local Authority budget cuts.
- 1.2 The Staffordshire and Shropshire Chief Environmental Health Officers Group have considered how support and resilience can be provided between the Authorities for times when resources are limited, when there is either an emergency situation requiring a response or providing a temporary professional resource.

2. Issues

- 2.1 It is considered mutually beneficial to form an agreement between The Staffordshire and Shropshire Councils Environmental Health Services namely Lichfield District Council, East Staffordshire Borough Council, Tamworth Borough Council, Newcastle Under Lyme Borough Council, Cannock Chase District Council, South Staffordshire District Council, Stafford Borough Council, Staffordshire Moorlands District Council, Stoke on Trent City Council, Telford and Wrekin Council and Shropshire Council to formalise such arrangements.
- 2.2 The proposed Memorandum of Understanding (MOU) is intended to establish a formal and professional understanding between the partners to improve resilience and maximise resources with the aim of maintaining operational efficiency.
- 2.3 The objectives of the MOU are:
 - To recognise the importance of maintaining and seeking to improve resilience within Environmental Health Services of the Staffordshire and Shropshire Authorities across the County.

- To seek to provide professional support and optimise both professional and technical resources by the sharing of resources between the respective Councils within Staffordshire and Shropshire on a 'needs' basis and 'reciprocal' basis.
- To ensure that this MOU is to be utilised only in the event of:
 - **An emergency event** requiring mutual aid (Civil Contingency situations) e.g. Large scale Food Poisoning/infectious disease event or serious accident requiring urgent professional intervention and resource need by a partner Council within Staffordshire and Shropshire Counties
 - **Providing temporary professional resources** as required e.g. long term sickness, sudden loss of staff

2.4 A full copy of the MOU is attached as Appendix A.

3. **Proposal**

3.1 That committee receives the report, endorses the memorandum of understanding and gives delegated authority to the Head of Environmental Health Services to enter into the agreement.

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

4.1 The proposal is in line with the all the Councils corporate priorities,

- Creating a cleaner, safer and sustainable Borough
- Creating a Borough of opportunity
- Creating a healthy and active community.
- Transforming our Council to achieve excellence

5. **Legal and Statutory Implications**

5.1 The Environmental Health Service is a regulatory service as the majority of the functions undertaken are based on legal requirements. A number of these statutory requirements place a duty on the Local Authority to undertake the function and therefore this MOU may assist in delivering these functions, should the situation arise where additional resources from other Local Authorities is required.

6. **Financial and Resource Implications**

6.1 These work activities, if utilised, will be accommodated from within existing budgets.

7. **List of Appendices**

Appendix A – Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING FOR ENVIRONMENTAL HEALTH SERVICES

Submitted by: Nesta Henshaw – Head of Environmental Health

Portfolio: Environment & Recycling

Ward(s) affected: All Wards

Purpose of the Report

To advise of a joint memorandum of understanding for Environmental Health services for Staffordshire and Shropshire Authorities.

Recommendation

That Committee receives the report, endorses the memorandum of understanding and gives delegated authority to the Head of Environmental Health Services to sign and enter into the agreement.

Reasons

Staffordshire and Shropshire Chief Environmental Health Officers Group have developed a memorandum of understanding to assist in providing resilience and resources for service delivery across the region.

1. Background

- 1.1 Throughout the County many Environmental Health services have been reviewed and restructured, in order to make efficiency savings in response to the Local Authority budget cuts.
- 1.2 The Staffordshire and Shropshire Chief Environmental Health Officers Group have considered how support and resilience can be provided between the Authorities for times when resources are limited, when there is either an emergency situation requiring a response or providing a temporary professional resource.

2. Issues

- 2.1 It is considered mutually beneficial to form an agreement between The Staffordshire and Shropshire Councils Environmental Health Services namely Lichfield District Council, East Staffordshire Borough Council, Tamworth Borough Council, Newcastle Under Lyme Borough Council, Cannock Chase District Council, South Staffordshire District Council, Stafford Borough Council, Staffordshire Moorlands District Council, Stoke on Trent City Council, Telford and Wrekin Council and Shropshire Council to formalise such arrangements.
- 2.2 The proposed Memorandum of Understanding (MOU) is intended to establish a formal and professional understanding between the partners to improve resilience and maximise resources with the aim of maintaining operational efficiency.
- 2.3 The objectives of the MOU are:
 - To recognise the importance of maintaining and seeking to improve resilience within Environmental Health Services of the Staffordshire and Shropshire Authorities across the County.

- To seek to provide professional support and optimise both professional and technical resources by the sharing of resources between the respective Councils within Staffordshire and Shropshire on a 'needs' basis and 'reciprocal' basis.
- To ensure that this MOU is to be utilised only in the event of:
 - **An emergency event** requiring mutual aid (Civil Contingency situations) e.g. Large scale Food Poisoning/infectious disease event or serious accident requiring urgent professional intervention and resource need by a partner Council within Staffordshire and Shropshire Counties
 - **Providing temporary professional resources** as required e.g. long term sickness, sudden loss of staff

2.4 A full copy of the MOU is attached as appendix 1.

3. **Proposal**

3.1 That committee receives the report, endorses the memorandum of understanding and gives delegated authority to the Head of Environmental Health Services to enter into the agreement.

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

4.1 The proposal is in line with the all the Councils corporate priorities,

- Creating a cleaner, safer and sustainable Borough
- Creating a Borough of opportunity
- Creating a healthy and active community.
- Transforming our Council to achieve excellence

5. **Legal and Statutory Implications**

5.1 The Environmental Health Service is a regulatory service as the majority of the functions undertaken are based on legal requirements. A number of these statutory requirements place a duty on the Local Authority to undertake the function and therefore this MOU may assist in delivering these functions, should the situation arise where additional resources from other Local Authorities is required.

6. **Financial and Resource Implications**

6.1 These work activities, if utilised, will be accommodated from within existing budgets.

MEMORANDUM OF UNDERSTANDING**Between****THE STAFFORDSHIRE AND SHROPSHIRE COUNCILS ENVIRONMENTAL HEALTH SERVICES****As supported/facilitated through****THE STAFFORDSHIRE AND SHROPSHIRE CHIEF ENVIRONMENTAL HEALTH OFFICERS GROUP (and endorsed by the Staffordshire Chief Executives Group)****1. Introduction**

The Staffordshire and Shropshire Chief Environmental Health Officer Group considers it mutually beneficial to form an agreement between The Staffordshire and Shropshire Councils Environmental Health Services namely Lichfield District Council, East Staffordshire Borough Council, Tamworth Borough Council, Newcastle Under Lyme Borough Council, Cannock Chase District Council, South Staffordshire District Council, Stafford Borough Council, Staffordshire Moorlands District Council, Stoke on Trent City Council, Telford and Wrekin Council and Shropshire Council hereinafter called the "Partners".

This Memorandum of Understanding (MOU) is intended to establish a formal and professional understanding between the partners to improve resilience and maximise resources with the aim of maintaining operational efficiency.

2. The Partners

The partners of this Memorandum of Understanding (MOU) are the Councils as detailed in paragraph 1. Introduction as represented by the nominated Head or Manager of the Environmental Health Service or their nominee.

3. Objectives

- To recognise the importance of maintaining and seeking to improve resilience within Environmental Health Services of the Staffordshire and Shropshire Authorities across the County
- To seek to provide professional support and optimise both professional and technical resources by the sharing of resources between the respective Councils within Staffordshire and Shropshire on a 'needs' basis and 'reciprocal' basis
- To ensure that this MOU is to be utilised only in the event of:
- **An emergency event** requiring mutual aid (Civil Contingency situations) e.g. Large scale Food Poisoning/infectious disease event or serious accident requiring urgent professional intervention and resource need by a partner Council within Staffordshire and Shropshire Counties
- **Providing temporary professional resources** as required e.g. long term sickness, sudden loss of staff

In both cases it is anticipated that this would be where resources of an individual partner may be compromised or resilience limited.

4. Terms

- That in the event of resources being used by a partner that all reasonable costs incurred are documented and formally requested by the provider Council/s and refunded by the recipient Council/s on payment of invoice at an agreed rate for specific professional/technical categories or grade of officer as confirmed by the provider Council. This would be based on the training and qualifications of the officer provided and relating to authorisation given.
- The MOU will come into effect on the date of signature and will remain in force until all parties agree to terminate.
- Any proposed amendment to the MOU shall be addressed to the Secretary of the Chief Environmental Health Officers Group, who shall circulate the proposed amendment to all parties and if agreed by all parties, such an amendment shall be recorded in writing and annexed to the MOU.
- Any participant local authority may leave the arrangement and be released from this MOU at any time by giving notice to the other local authorities.

Signatories

Name and Title: Date:

FORCOUNCIL

Name and Title: Date:

**FOR THE STAFFORDSHIRE CHIEF ENVIRONMENTAL HEALTH OFFICERS GROUP ON
BEHALF OF THE STAFFORDSHIRE AND SHROPSHIRE ENVIRONMENTAL HEALTH
SERVICES**