

Public Document Pack

Date of meeting	Monday, 4th February, 2013
Time	7.00 pm
Venue	Civic Offices, Merral Street, Newcastle Under Lyme, Staffordshire ST5 2AG
Contact	Geoff Durham

Public Protection Committee

AGENDA

PART 1– OPEN AGENDA

1	Guidance Notes (for information)	(Pages 1 - 16)
2	Apologies for absence	
3	DECLARATIONS OF INTEREST	
	To receive declarations of interest from Members on items included in this agenda.	
4	MINUTES OF PREVIOUS MEETING	(Pages 17 - 20)
	To consider the minutes of the previous meeting held on 3 December, 2012	
5	DOG CONTROL ORDERS	(Pages 21 - 42)
	To consider a report on Dog Control Orders	
6	ENVIRONMENTAL PROTECTION ACT 1990 SECTION 81(4) - OUTCOME OF PROSECUTION PROCEEDINGS	(Pages 43 - 44)
	To consider a report on the outcome of legal proceedings taken by the Council regarding a breach of a noise abatement notice.	
7	CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 - FIXED PENALTY NOTICES	(Pages 45 - 46)
	To consider a report on Fixed Penalty Notices	
8	INCREASE OF FEES	(Pages 47 - 50)
	To consider a report on the proposed variation of fees relating to Private Hire Vehicles and Hackney Carriages	
9	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.

10 CONFIDENTIAL REPORT(S)

To consider the confidential report(s) of your officers

**11 Local Government (Miscellaneous Provisions) Act 1976 -
Private Hire Driver - Mr QI** (Pages 51 - 54)

**12 Local Government (Miscellaneous Provisions) Act 1976 -
Private Hire Driver - Mr H** (Pages 55 - 58)

13 REPORTS OF YOUR OFFICERS

To consider the reports of your Officers

**14 Clean Neighbourhoods and Environment Act 2005 - Fixed
Penalty Notices** (Pages 59 - 62)

15 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

Monday, 3rd December, 2012

Present:- Councillor Mark Olszewski – in the Chair

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

1. APOLOGIES FOR ABSENCE

Apologies were received from Cllr Welsh, Cllr Allport and Cllr Mrs Hailstones.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PRIVATE HIRE DRIVER MR S

The Chair welcomed Mr S to the meeting. The Committee considered the facts put forward in the report by the Licensing Officer and took into consideration the circumstances and events outlined by the applicant.

Resolved: That the application be refused at the present time as it was still within the 5 year refusal period as suggested by the Council's guidelines and the Committee were not satisfied that the applicant was at the current time a 'fit and proper person' to be a private Hire Driver.

4. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PRIVATE HIRE DRIVER MR R

Cllr Miss Walklate declared an interest in that she knew the applicant and would take no further part in discussion of this item.

The Licensing Officer outlined the case relating to Mr R as was outlined in the report.

The Committee considered the facts as presented in the report, the Council's conviction guidelines and the circumstances surrounding the events as stated by the applicant.

Resolved: (a) That Mr R's Private Hire Drivers Licence be suspended for a period of 28 days beginning at midnight on 3rd December 2012.

(b) That the reinstatement Mr R's licence be contingent on him having received training especially in relation to the reading and understanding of Council procedures and disclosures.

5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PRIVATE HIRE DRIVER MR H

Resolved: That this item be deferred until the next meeting of the Committee.

6. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PRIVATE HIRE DRIVER MR A

The Chair welcomed Mr A to the meeting and the Licensing Officer outlined the facts relating to his case as outlined in the report. The Committee considered the information provided by Mr A and the events which he explained had led to his appearance before the Committee.

Resolved: That the licence be granted.

7. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PROSECUTION PROCEEDINGS - UNINSURED PRIVATE HIRE VEHICLE

The Committee received a report to advise it of action taken in respect of offences under the Local Government (Miscellaneous Provisions) Act 1976 with regard to private hire licensing and operation and to seek authorisation to institute legal proceedings and against Mr IR.

Resolved: That legal proceedings be instituted.

8. ENVIRONMENTAL PROTECTION ACT 1990 - SECTION 81(4) PROSECUTION OF MRS J G FOR BREACH OF A STATUTORY NOISE NUISANCE ABATEMENT NOTICE

A report was submitted to seek authority to commence legal proceedings under the provisions of Part III of the Environmental Protection Act 1990 against Mrs JG for a prolonged and severe noise nuisance to neighbours in contravention of an existing noise abatement notice caused by shouting and screaming and hammering and banging on the wall with her fists.

Resolved: (a) That subject to the Head of Central Services being satisfied with the evidence, that proceedings be instigated in the magistrates court for failure to comply with the terms of a noise abatement notice dated 24th November 1999 contrary to section 80(4) of the Environmental Protection Act 1990.

(b) That in the event that a conviction is obtained for breach of the noise abatement notice, that support be given to an application by the Head of Central Services for a Post Conviction Criminal Anti Social Behaviour Order on terms considered appropriate by the Head of Central Services.

(c) That in the event of a successful prosecution that full details of the case be reported via all appropriate media streams as determined by the Head of Media and Communications.

(d) That a full report outlining the circumstances of the case and the actions taken and outcomes be reported to a future meeting of the Public Protection Committee.

9. RESULTS OF CONSULTATION WITH PRIVATE HIRE VEHICLE LICENCE HOLDERS

To inform the Committee of the results of consultation with Private Hire Vehicle Licence Holders.

Consultation had been undertaken and the holders of Vehicle Licences had been written to asking their views on the proposed addition of a condition which stipulated:

"DOORSIGNS

The holder of a Private Hire Vehicle licence shall ensure that door signs are displayed on their Private Hire Vehicles and that the signs comply with the following:

The sign shall measure at least 590mm x 220mm and shall be adhesive in type and shall exhibit the following:

- (i) The words "PRIVATE HIRE PRE BOOKED JOURNEYS ONLY" in lettering measuring at least 20mm and no more than 30mm.
- (ii) The name of the Operator under whose licence the vehicle is operated, and the first three figures of the telephone number of that Operator in lettering measuring at least 30mm and no more than 70mm high.
- (iii) The final four figures of the telephone number of that Operator in lettering measuring at least 70mm and no more than 110mm high."

There had been a very low response to the consultation which appeared to suggest that there was no strong opinion regarding the signage. Members considered that the signage would be beneficial as it would clear up any existing ambiguity regarding the pre booking of journeys.

Members moved and agreed the conditions as recommended.

Resolved: That the condition be added to the Vehicle Licence as proposed.

10. PIGEON CONTROL: NEWCASTLE TOWN CENTRE

A report was submitted to confirm current measures regarding pigeon control and to propose further action to control pigeon numbers within the town centre. Control required long-term support of residents, traders, and sustained cleansing and enforcement by the council. No single element would provide a solution, and unless commitment could be obtained to continue actions for at least 12 months, little impact would be seen.

Resolved: (a) That the authority continues its current action to remove litter and discourage littering.

(b) That we aim to educate residents of the problems caused by encouraging pigeons, and to confirm that it may be necessary to issue fixed penalty notices for bird feeding in the future where there is a persistent offender.

(c) That designated feeding areas were not desirable.

(d) That through traders groups the Council will continue to encourage correct maintenance of buildings, and proofing works where appropriate.

(e) That the Council will attempt to identify trader support for lethal controls, establish those willing to provide treatment sites, and the likelihood that they will either commission works independently of the council, or be willing to contribute to the council's costs if it coordinated lethal controls

(f) That officers investigate signage to discourage people from feeding the pigeons.

(g) That the situation be monitored and a review report be brought back to the Committee in 6 months time.

11. ENVIRONMENTAL PROTECTION ACT 1990, SECTION 33, 34, 34(2A) - FLY TIPPING

A report was submitted to advise the Committee of action taken in respect of fly tipping offences within the borough and to seek authorisation to institute legal proceedings.

Resolved: That legal proceedings be instituted in relation to this case.

12. CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 - FIXED PENALTY NOTICES (1)

A report was submitted 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 the attached appendix.

Members welcomed the report and it was thought that the work undertaken by officers was really having an effect with less people dropping litter and fixed penalty notices being actively progressed and paid before there was a requirement to seek legal action.

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

13. CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 - FIXED PENALTY NOTICES (2)

A report was submitted to advise the Committee of the action taken in respect of Littering offences within the Borough.

Resolved: That the report be received.

14. URGENT BUSINESS

COUNCILLOR MARK OLSZEWSKI
Chair

Agenda Item 5

DOG CONTROL ORDERS

Submitted by: David Beardmore, Environmental Health Team Manager – Dog & Pest Control

Portfolio: Environment and Recycling

Ward(s) affected: All

Purpose of the Report

To confirm Members wishes in respect of Dog Control Orders (DCOs) following public consultation.

Recommendations

(a) That four dog control orders should now be made commencing 1 April 2013, which will:

- Require the person in charge of a dog to clear up dog faeces
- Require dogs to be on a lead (in specified places)
- Require dogs to be put on a lead if directed by an authorised officer
- Exclude dogs from specific areas.

(b) That, where appropriate, enforcement is through the use of Fixed Penalty notices, of the default value (currently £75) discounted to £50 if paid within 10 days, with cases referred for prosecution if unpaid.

Reasons

Updated procedures ensure that right controls are assigned to appropriate places, providing clear rules which we can encourage residents to follow. Introducing Dog Control Orders demonstrates the authority's commitment to maintaining clean, green and safe public places.

The option to use fixed penalty notices streamlines current enforcement mechanisms, and should ensure that enforcement utilises less staff resource. The authority has the option to target enforcement and to undertake enforcement projects jointly with PCSOs and community members.

1. Background

- 1.1 Following a previous decision of Public Protection (6 August 2012), a formal public consultation was run from 26 November 2012 to 31 January 2013 (10 weeks).
- 1.2 Details of the proposals were contained in the November 2012 edition of The Reporter, covered as a news article by The Sentinel and published as a Public Notice on 3 January 2013. In addition BBC Radio Stoke broadcast an interview outlining the proposals.
- 1.3 Throughout the consultation period comprehensive support materials have been available on the Council's website, along with an on-line survey/feedback form.
- 1.4 To complement this we have displayed approximately 80 posters in local vet surgeries, libraries, and public notice boards, handed out more than 900 flyers and spoken with approximately 300 dog walkers.

1.5 To achieve report drafting deadlines it is not possible to detail the final consultation results. Updated figures will be made available to Members verbally at the meeting, however at the 14 January 2013 results were:

1. Do you live in or regularly visit Newcastle?
93.6% Yes 6.4% No
2. Are you a dog owner?
50.6% Yes 49.4% No
3. Do you think there is a problem with dog fouling in Newcastle-under-Lyme?
72.3% Yes 18.5% No 9.2% Don't know
4. Do you support **Dog Fouling controls** in all public places across the borough?
96.6% Yes 2.9% No 0.6% Don't know
5. Do you support **Dogs on Leads controls** in the places we've listed?
79.7% Yes 14.0% No 6.4% Don't know
6. Do you support **Dogs on Leads by Direction** controls in all public places across the Borough?
76.3% Yes 16.8% No 6.9% Don't know
7. Do you support **Dog Exclusions** in the places we've listed?
72.4% Yes 17.2% No 10.3% Don't know

Responses at 14 January 2013, day 50 of consultation, 175 responses

2 Issues

- 2.1 Having concluded the consultation Members are now obliged to consider any representations made, and decide whether or not to proceed with making the orders. Consultation comments are attached as Appendix A, with updates published at www.newcastle-staffs.gov.uk/dogcontrols
- 2.2 If Members now wish to amend the proposed orders, Officers need to know the requested changes so that revised orders can be drafted, and formal public consultation started again.
- 2.3 We propose a 'soft launch' to enforcement of new Orders, giving us time to ensure staff are appropriately trained and supported to use new powers. Our initial focus will be upon education. A detailed enforcement strategy and the operational policy will be brought to Members later in the year once we have identified general compliance with controls, and can establish problem areas and available staff resources to pursue enforcement

3. Options Considered

- 3.1 The authority could introduce DCOs, by Committee instructing the Head of Central Services to arrange the signing of the orders.
- 3.2 Alternatively, as the authority is not obliged to make changes to its current controls, Members may decide to take no action at this time.

4. Proposal

4.1 **Adopt Control Orders**

It is recommended that four dog control orders should now be made which will:

- Require the person in charge of a dog to clear up dog faeces
- Require dogs to be on a lead (in specified places)
- Require dogs to be put on a lead if directed by an authorised officer
- Exclude dogs from specific areas.

Details of the orders proposed is attached in Appendix B: Draft Orders.

There is currently no specific delegated power in respect of the making of Dog Control Orders, accordingly it is recommended that Public Protection Committee specifically instructs the Head of Central Services.

4.2 Set Commencement Date

It is recommended that orders come into force on 1 April 2013.

4.3 Set Fixed Penalty

It is recommended that Members accept the default tariff (£75) for breaches of orders, with the option for this to be reduced to £50 if paid within 10 days. Unpaid cases will be referred for prosecution.

This is in-line with tariffs set for other Clean Neighbourhood and Environment Act offences by Public Protection Committee in September 2007.

5. Reasons for Preferred Solution

5.1 Public support (Public Consultation Results).

5.2 Efficient, best use of resources (Public Protection Report: 6 August 2012).

6. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

6.1 Introducing DCOs demonstrates the authority's commitment to maintaining clean, green and safe public places.

6.2 The option to use fixed penalty notices streamlines current enforcement mechanisms, and should ensure that enforcement utilises less staff resource. The authority has the option to target enforcement and to undertake enforcement projects jointly with PCSOs and community members.

7. Legal and Statutory Implications

7.1 The Dog Control (Procedures) Regulations 2006 details the process the authority must follow to publish and consult on its proposals, and prescribes a mechanism for adopting an order.

7.2 The Dog Control Orders (Prescribed Offences and Penalties etc) Regulations 2006, specifies the form of the order.

7.3 Orders need to be duly signed, and a commencement date agreed. This date must be at least 14 days from the date the order was made.

7.4 The authority is obliged to publish a Public Notice stating: a) that an order has been made and b) where the Order may be inspected and copies of it obtained. Relevant documents will also need to be published on the council's website.

7.5 The Environmental Offences (Fixed Penalty)(Miscellaneous Provisions) Regulations 2006 enables the authority to select a fine level for fixed penalty notices of between £50 and £80, the default being £75

8. **Equality Impact Assessment**

No issues have been identified.

9. **Financial and Resource Implications**

9.1 The authority will incur costs publicising adopted controls, and increased interest in dog related issues is likely to generate additional service requests.

9.2 The authority will be obliged to clearly display signage ensuring that residents fully understand the controls in place at each specific area. The most onerous aspect of this will be to add/replace some signs at children's play grounds. There is no legal requirement for such signage to be in place immediately, and it would therefore be sensible to review and prioritise any required changes. Officers may advise and educate, but would not issue penalties until signs were in place.

9.3 There are no plans to place further "No Fouling" signs across the borough. There are currently approximately 3,500 such signs displayed reminding residents that fouling controls apply in all public places. These will not be replaced once they degrade.

9.4 A limited income can be expected from Fixed Penalty Notices. The objective of streamlining enforcement is to achieve greater compliance and efficiencies in enforcement, rather than to issue significant numbers of penalties. Court Costs, which are typically recoverable, will be incurred where prosecutions are pursued in the event of non-payment.

10. **Major Risks**

10.1 That despite consultation feedback to the contrary, there is a risk that controls may not be supported.

10.2 There is a reputation risk to the council if the controls are not effectively enforced.

11. **Sustainability and Climate Change Implications**

11.1 Any reduction in fouling would produce a consequential saving in cleansing functions, with associated savings of travel etc.

12. **Key Decision Information**

12. Elements of the proposed dog control orders affects all wards. Controls determine how dog owners can use a variety of public places.

13. **Earlier Cabinet/Committee Resolutions**

13.1 Public Protection Committee agreed to commence a public consultation on proposed controls on 6 August 2012.

13.2 Public Protection Committee agreed tariffs for other offences under the Clean Neighbourhood & Environment Act 2006 on 10 September 2007.

<http://sviam/CeConvert2PDF.aspx?MID=1314&F=publicprotection%20minutes-10-09-2007%20Word%20%2836K%29.doc&A=0&R=0>

<http://sviam/CeListDocuments.aspx?CommitteeId=123&MeetingId=1314&DF=10%2f09%2f2007&Ver=2>

14. **List of Appendices**

Appendix A - Consultation Responses
Appendix B - Draft Orders

15. **Background Papers**

More information about Dog Control Orders can be found on the defra website at:
<http://www.defra.gov.uk/environment/quality/local/dog-fouling/>

A guide to Dog Control Orders is published at:
<http://archive.defra.gov.uk/environment/quality/local/legislation/cnea/documents/dogcontrol-orders.pdf>

Guidance for Parish Councils is available at:
<http://archive.defra.gov.uk/environment/quality/local/legislation/cnea/documents/parishcouncilguide.pdf>

Responses to Public Consultation: Dog Control Orders
26 November – 14 January 2013

(Please note retries received since 14 January 2013 are published at
www.newcastle-staffs.gov.uk/dogcontrols)

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DOG CONTROL ORDER PUBLIC CONSULTATION RESPONSES

- 1: Think controls have been well thought out.
- 2: Dog owners of The Dingle, Porthill: on behalf of local dog-owning residents regularly visiting The Dingle, Porthill (and other locations within the borough) we acknowledge the fact that not all are responsible enough to pick-up, however, we do actively remind those offenders to do so - some of us will pick-up after others! This is not a massive problem, as the majority are responsible and do pick-up. With reference to dogs-on-leads: dogs are often misunderstood and any dog trainer or behaviourist expert will tell you that dogs must be socialised and exercised responsibly. This means off-lead (note that the dogs-on-leads are often the anti-social ones - ask yourself why?). Again, we do not doubt that the odd individual might release what might be construed as an anti-social dog, however, dogs will be dogs and they do occasionally have conflicts (as do humans but we do not insist on leashing these). Please, we beg you not to destroy our freedom and the freedom enjoyed by our dogs. As a side issue, could we point out that the litter left by youngsters and their anti-social behaviour demands further action - could we possibly consider banning these people from our parks? Sorry if this appears to be a bit of a rant, but it is an issue about which we feel strongly. PS. we do pay our council tax to use the local facilities, as do all other individuals - why should we be controlled or excluded? Many thanks for considering our comments.
- 4: DOG DIRT ALONG THE AVENUE BASFORD IS DISGUSTING.
- 9: I live in Talke and walk my dog on Chester road recreational park where fowling is a problem and i would not like my children to use it I have even seen dog owners exercising there dogs in the enclosed swings area.
- 10: I live in the Poolfields area and out where dog walkers go and have yet to see a dog warden in the area. The poopy bins are often full and need emptying of which I have several times, had to report this to the Council. I was led to believe that more dog bins would be supplied in the area, if they have been sited, where are they? It would interesting to know where the restricted areas are, where is the information for this? Would this cause limited availability for disabled and elderly people who do not have transport to take their dogs out for exercise. Perhaps more time and investment should be ploughed into anti-social behaviour within Poolfields as it affects everyone more than problems with dogs.
- 11: I think it is important that there are still areas across the Borough where dog owners can let their dogs off the lead. As a responsible dog owner, I hope that these new measures and dog fouling fines will be publicly enforced to ensure compliance. I don't necessarily feel that there is a huge problem with dog fouling in the Borough, mostly the pavements are very clean, but fully support any measures to raise awareness and improve the Borough.
- 12: Perhaps instead of controlling dogs, council officials should investigate the "fouling" of Bathpool Park by members of Linley Rugby Club urinating under the bridge of the dry ski slope!
- 22: We live in Cross Heath. My five year old is constantly being told to 'watch where you're treading' as there seems to always be a lot of dog mess on the pavements!
- 23: I regularly walk through the Three Parks between Clayton Road and Pilkington Avenue in the Westlands with my three children, using it as a route to and from school. Unfortunately, it is obvious that several dog owners are not cleaning up after their dogs which is incredibly unpleasant. Also, many dogs are being walked off the lead and we often have dogs running up to us, barking and jumping up. It would be nice if this area required dog owners to keep their dogs on a lead as many families use the Three Parks to get to and from school and should be able to do so without dogs approaching them and having to avoid walking in dog faeces.

APPENDIX A

24: What is the situation regarding the children's play areas on Wolstanton Marsh? Does the fact that they are located on Common Land prohibit the council from applying these measures to them?

25: I think as the owner of two dogs these proposals are fair enough. I don't walk my dogs in these types of areas anyway for these reasons. I exercise mine on the marsh which I see is unaffected anyway. These proposals will only work with positive action by wardens forget the education approach you'd have to have been living under a rock to still not know you have to clean up after your dog. Therefore those that don't bother need punishing.

27: My dog is not on a lead but is always under control so I do not support a blanket order. Where problems are encountered then notices should be issued. Do not penalise all dog owners for the few irresponsible ones.

28: I have 2 German shepherds who I regularly walk around Apedale, Bathpool and Silverdale Colliery amongst other places. Both of my dogs go to obedience classes and agility training. I am a responsible dog owner. I carry poo bags with me every time I go out with my dogs and I clean up after the dogs every time they foul, even if it is off the beaten path. Most of the people that I see on my walks are responsible dog owners too, they clean up. They put their dogs on leads when necessary. I have good control of my dogs and they do as I tell them. I put in the time and effort and I don't see why I should be penalised as a responsible dog owner. If my dogs were not trained or if they were out of control, they would be kept on a lead and muzzled. I think dog owners should be allowed to judge how to deal with their own dogs, after all they're the people that know them the best.

30: I walk my two dogs round Bathpool every week. It is a fantastic time for us and my dogs love it. What annoys me is a few bad owners out there never pick up their dog faeces.....whether they are on a lead or not! This means you tar everyone with the same brush and ruin the experience for good dog owners. If we were not allowed to exercise our dogs properly and they start putting on weight then are you going to pay our vet bills for all the medical conditions this could cause. The situation would be improved if there were people in the parks fining the owners that don't pick up after their dogs. Leave good dog owners alone.

31: Who is complaining about this? Cyclists, runners? Obviously the dogs would get in their way but it's a park.....these people can do their activities anywhere...dogs can't. A few bad apples not picking up after their dogs should not go against everyone else. All the dogs I see on the walk...off lead...are still under control. The return to their owners when shouted and are well behaved. I have also seen a dog...on lead...foul in the area and the owner left it and continued the walk. So why penalise the rest of us. Do you have children? There are a few bad apples there also, how would you like it if we thought all children were the same, yours included....I bet you wouldn't be happy!

32: Kath Bell dog training club. Some of us go to dog classes and are learn how to control how dogs and to pick up after them dog do need to be free in the right places I think the law should be made that every one who owns a dog should be made to go to dog classes for at least two years when we let our dogs of to fun free when we see dogs or people we always call our dogs back to use and made them sit by our side until they have gone pass and then we let them off again.

34: While dog fouling is an issue I don't feel that you can lay this on the shoulders of dog owners who allow their dogs to walk off their leads. I have seen, across various locations, people with dogs on leads who turn a blind eye to their dogs mess. By enforcing dogs to be on leads at all time you are unfairly penalising responsible dog owners who do clean up after their dogs from walking in these lovely parks and allowing their dogs to fully enjoy themselves too.

35: RESIDENTS OF NBC HAVE REQUESTED THIS FOR YEARS. SENTINEL 28/11/2012 REPORTS 52 LITTER PENALTY TICKETS REMAIN UNPAID.? WHY DOG FOULING TICKETS MUST BE WORDED IN SUCH A WAY THAT TICKETS ISSUED WILL BE COLLECTED WHAT EVER THE

COST, OR WE WILL END UP LIKE STOKE COUNCIL WRITING OFF TAX NON PAYERS (THIS MUST NOT HAPPEN) PROVE YOUR WORTH AND COME DOWN HEAVY ON FIRST 100 TICKETS AND LATER TICKET HOLDERS WILL FALL INTO LINE -BE STRONG AND WE MIGHT BE ABLE TO AFFORD MORE THAN TWO DOG WARDEN

36: My dog is part of my family, when my family and I visit Apedale we take the dog as she is part of our family, if you restrict us from going to certain areas we will no longer be able to visit Apedale. Yes there are some very irresponsible dog owners but we are not all like that. Why not have patrols that can catch these people not cleaning up after there dog and fine them??

38: Kennel Club.

The Kennel Club is the governing body of dogs in the United Kingdom amongst whose main objective is to promote in every way the general improvement of all dogs and encourage responsible dog ownership.

As part of its External Affairs activities the Kennel Club runs a dog owners group KC Dog, which was established to monitor and keep dog owners up to date about dog related issues, including dog control orders being introduced across the country.

We have some concerns regarding your proposed dog control orders which include (1) Dog Fouling, (2) Dog Exclusions, (3) Dogs on Leads and (4) Dogs on Leads by Direction. I have enclosed our briefing on Dog Control Orders for information; however, I would like to outline the reasons for our concern below.

Firstly, I would like to remind you of the intention of the Clean Neighbourhoods and Environment Act 2005 to give local authorities the powers to implement Orders only that are necessary and proportionate responses to problems caused by dogs. Defra's guidance on the Act states that: "It is important for any authority considering a dog control order to be able to show that this is a necessary and proportionate response to problems caused by the activities of dogs and those in charge of them and; Any authority needs to balance the interest of those in charge of dogs against the interests of those affected by the activities of dogs and that a failure to give consideration to these factors could make any subsequent dog control order vulnerable in the Courts."

To turn to your proposals the Kennel Club does not normally oppose orders to exclude dogs from playgrounds, bowling greens or recreational facilities, as long as alternative provisions are made for dog walkers in the vicinity. Also, we would point out that children and dogs should be able to socialise together quite safely under adult supervision. However, in respect to any sport pitches, we would ask that you consider whether or not these restrictions are absolutely necessary and whether, in the latter case, time-limited restrictions could be introduced to cover use of pitches for sporting purposes.

Regarding Newcastle-under-Lyme Council's 'Dogs on Lead' order proposal, the Kennel Club believes that so long as dogs are kept under effective control (keeping the dog within sight and being confident that it will return on command) off-lead there should be no reason to restrict them in this way in public spaces. We would ask you to review the 'Dogs on Lead' proposal and consider instead extending the area in which your proposal of 'Dogs on Leads by Direction' could be applied to.

Furthermore, in order to help Newcastle-under-Lyme Council and your authorised officers with defining what an out of control dog is, we have provided our definition below:

"Given that a dog under control is one that will obey its owner on command, whether on the lead or off the lead, KC Dog considers an out of control dog to be one behaving in such a way that would cause personnel trained in dog behaviour to reasonably believe that there was a significant

possibility that through the actions of the owner in not controlling the dog, it would cause damage, distress, or physical harm (accidental or otherwise) to people or other dogs".

We would also like to stress that the authorised officer enforcing the order must be properly trained in dog behaviour in order to determine whether restraint is necessary. We would also recommend that the authorised officer only be able to direct a person to put their dog on a lead if the dog is not under proper control. There is a danger that, through no fault of its own, a dog could be a 'nuisance' or 'annoyance' to another person who simply does not like dogs.

Ultimately, any proposal to restrict or exclude access for dogs to public spaces should simultaneously establish dog friendly areas of open land within the same location; the accessibility of alternative routes already available and potential negative effects on government targets for health and reducing congestion.

With regards to the dog fouling control order, the Kennel Club does not necessarily oppose the introduction of these orders, as this measure can help by sensibly ensuring that dog owners act responsibly. However, we would encourage Newcastle-under-Lyme Council to adopt more proactive measures which tend to help more when promoting responsible dog ownership throughout local area.

Based on our previous work and funded research on this issue, there are numerous reasons why dog fouling may be occurring in the first place. These include:

There may be a lack of signs and/or understanding amongst the dog owners in the area regarding the legal requirements which can differ depending on the needs of the land owner or of the type of land.

Dog bins may not be conveniently located or sighted for dog owners and are therefore undiscovered or disregarded.

Existing bins may not be regularly emptied and cleaned.

There may be a small number of persistent offenders.

We have found that other local authorities which have similar problems have typically experienced a reduction in dog fouling by holding an event such as a 'Responsible Dog Day,' where officers can discuss the needs of dog owners in relation to the citing of bins or existing signs which advise the public on where to dispose of dog faeces. Such events can be run for a small incurred cost of £500 – which is often deemed to be cheaper than setting up public display notices, running a public consultation and acquiring signs displaying information about new orders in your council.

I would like to take this opportunity to invite Newcastle-under-Lyme Council to sign up to the Kennel Club's KC Dog campaign. There are no entry requirements, but consulting with KC Dog, or keeping KC Dog up to date with what your Council is doing is a good way to keep in touch with our dog-owning members. For more information visit www.thekennelclub.org.uk/kcdog and to join, email kcdog@thekennelclub.org.uk.

I hope you take these points into consideration and I hope that you find the enclosed briefing of use. Please do not hesitate to contact me if you have any questions.

39: I think this is a disgrace, the vast majority of dog owners in this area are responsible dog owners who respect the areas they walk their dogs. I have used Bathpool Park for years, well before the council took any interest in developing it. I use this park daily and I can understand the concerns of "some irresponsible" owners but how you can target everyone who owns a dog for select few is a joke. I would say 85% of people who use Bathpool are dog owners and during the colder months I

would say that was higher, so how you think this is fair to restrict the majority user is beyond me. I'd be interested to know how many wardens have issued tickets for dog fouling seen as its a problem and how you think keeping dogs on leads would reduce dog fouling in these area. As I say it's the few irresponsible owners you should be dealing with not the majority

40: Agree with dogs on a lead in children's play areas however I completely disagree with dogs on a lead on football pitches, Apedale and Bathpool etc. I live by Birchenwood fields and I always clean up after my dogs - which is more than football clubs do who use the fields at the weekend. My dog had to have an operation costing £500 after cutting her foot on litter left after a tournament. Perhaps more bins located in the field rather than just on the car park would help. Also if I and others are unable to walk to an area where we can exercise our dogs off lead we will need to travel in the car further afield leading to increased environmental impact and more traffic on the already busy roads. Also I would be interested to see this research which details that when dogs are on a lead the handlers are more likely to pick their poo up! I have seen people watch their dogs leave a mess on the pavement and just walk off and their dog is on a lead. Rather than spending all this money bringing in new bylaws and penalising the majority; just allocate the money towards more patrols to catch the people who don't clean up after their dogs now - as these are the type who still wont bother even if you bring in these new measures. Why should I and my family not be able to enjoy full access to all these areas as we pay the same council tax as everyone else. This is like a knee jerk reaction and one stick beats all policy. Please don't stop my dogs running free - the are well trained and cause no nuisance to anyone; why should they suffer?

42: Do agree that dogs should not be allowed on areas where children play or activities are regularly held. I do feel though that there are not enough local areas of greenery available for just dog walking, for example in the USA they have parks just for dogs. More and more areas are having stricter and stricter limitations placed for dog walkers. A dog needs to have off lead exercise to keep both body and mind healthy and active. I use Baldies field on Hempstalls Lane and part of this has been taken for the development of the new nursery. I don't go over onto the playing field area, so now I'm stuck to walking in a circle on a tiny area of green. The amount of people that use this as a dogs toilet is disgusting and its the few irresponsible dog owners, that don't clean up after their dogs, that give us all bad names. I strongly believe if your not prepared to clean up after your dog then you should not have one!. I attend Kath Bell dog training school that is held on a Tuesday night in Knutton Community centre and have been going there for the past 5 years with my two dogs. Not enough people train and socialise their dogs properly or give up too easily. I also think that something should be included in schools teaching children the do's and don'ts around dogs. All in all I do agree that things need to change or become a bit stricter BUT there also needs to be areas just for dogs provided too. As you've said 1 in 4 houses own a dog, and rescue kennels are full to bursting already so lets not double that by putting strict laws with no leeway, leaving people no choice but to give their dogs up. It should be give and take not just take as then we are being discriminated against. Thank you for your time and I'm sorry if I've waffled on but I hope this reads across how seriously i take this issue

53: I don't think dogs should be excluded for certain places as long as they are on a lead and under proper control. There are not enough dog fouling bins which is why people do not pick it up. There is not a bin from the Highland on the corner of the parkway all the way up to Keele.

55: Thistleberry Residents Association. I have specified no to item 6 as "unfenced children's play area's/some open spaces owned by parish and town councils" because as dogs moving into unfenced area would be difficult to enforce. Public areas that are not fenced from free dog access areas would be difficult for dog owners to comply with without making the whole area a lead control area. This would not be fair. As long Dog owners are clearly instructed to act responsibly in areas close to unfenced areas near to free dog access areas.

APPENDIX A

58: - Bring back dog licenses. - Simplify the system whereby residents having to deal with dog fouling can arrange for a council employee to remove the excrement. At the moment all that happens is a long winded and expensive process making a reports etc. but with no one actually taking it away.

59: Generally, dog fouling is not to bad in Newcastle under Lyme town itself. The problem is in areas where dogs are allowed to roam free.

61: No places listed !

62: more dog exclusion areas would be good...as would more patrols to catch people not clearing up. I am not a dog hater - but I am fed up of irresponsible owners. You can't walk to school in Loggerheads due to the amount of fouling on the pavements. Some residents have stencilled signs on the pavements which has improved matters in those areas - Reynards rise. perhaps you could do a more widespread stencilling? Thanks.

63: Keeping dogs on leads has nothing to do with stopping dog fouling. Owners who are the worst offenders often never let there dogs off their extendible leads.

64: It appears that after initial enthusiasm by owners, it has now become less sexy to pick up the waste. This seems to be predominantly the ladies, but also the elderly who cannot manage the activity, unfortunately, I cannot see an immediate solution other than more bins and continual education.

68: There needs to be more action to identify and punish dog owners who do not clean up after their dog.

69: There is lots of dogs roaming loose in my area and I think that there should be some control over them, i.e catching the dogs and putting them in the dog pound.

71: I couldn't find any listings on the questionnaire - hence the responses to Qs 6 and 8.

72: name and shame dog owners who foul pavements and verges. Encourage people to photograph dog owners not picking up/clearing dog mess

74: There is quite a lot of dog fouling around the West Brampton, Enderly Street, Station Walks, and along A34. It seems that most parks I've visited have a problem with dog fouling. In the area where I live the dog fouling seems to occur at unsocial hours (either very early or very late) which along with a lack of police presence means hardly anyone gets caught for not cleaning up after their dogs. I believe the only way you will encourage people to clean up after their dogs is if a DNA system like they have in some parts of Germany with fines used to pay for cleaning up they mess (for this to work though the government would need to introduce a DNA data base if they ever introduce compulsory chipping).

78: The Borough tries very hard to control dog fouling but there are some owners of dogs who still allow their dogs to foul perhaps there is the need for more fines to be issued and advertised – e.g. how many people were fined each month or 6months So people are more aware of the possibility of being fined !!!

81: People with dogs should both be treated with and behave with respect. Most dog owners are sensible in the way that they control and clear up after their dogs; given that there should be no access restrictions on them - adequate laws and bylaws exist to deal with those who allow their dogs to cause a nuisance - please don't restrict the many as a result of poor behaviour by the few.

83: There is still a small amount of dog owners who don't clean up and pretend to not notice the dog fouling. Although generally speaking the situation is vastly improved throughout the area.

84: You haven't listed anywhere so I can't comment.

85: It would be helpful to have bins for poo bags particularly in the more rural areas.

92: People who walk nasty dogs should be forced to muzzle them. I have three bitches and am sick to the back teeth of nasty dogs trying to attack them and brain dead owners ignoring the dogs bad behaviour. We NEED more dog pooh bins especially around Chesterton.(Wolstanton Road and London Road).

95: I love dogs and have previously owned dogs however, whilst some owners are very good at looking after their pets other do not and spoil privileges that should be enjoyed by all owners.

96: We are losing too many freedoms. More, stronger bins for dog excrement and more frequent emptying is a better solution.

97: I also think that people should only be able to own 2 dogs as on many occasions when I have walked my dog we have had to cope with people who have 3 dogs or more off the lead. They then act like a pack animal and it is very scary. Gone are the days when it was pleasurable to walk dogs. There are also individuals who walk dogs in the Cross Heath area, mostly young men with Staffys who do not put them onto a lead. A fellow dog walker had a very nasty incident on the Silverdale railway/cycle path where her dog was attacked by a staffy even though she asked him to put him on a lead. As for dog fouling it is horrendous and gives good dog owners a bad name. Apologies for all the negativity but something really needs to be done. There should be a direct line for the dog warden as you have to phone the council which is then transferred to the dog warden which takes time when they are needed promptly

98: Some areas of the Borough are worse than others. There should be a consistent approach throughout.

101: There seems to be so many people walking dogs in public places and they are not on leads which is dangerous where children are playing and walking. Something needs to be done before somebody gets hurt. It seems some dog owners do not care about anything but themselves.

102: Responsible dog owners and their pets should not be penalised by over regulation for a minority of poor pet owners. Closer community policing should be able to reduce fouling and unsupervised pets.

103: Places not listed so that's helpful!!!!!! This is the usual treat all dogs as dangerous argument as used by cat owners. Are we going to do something about cats entering people properties and pooing everywhere??

104: I think that dogs when being walked on public streets or walkways should be kept on a lead. There are plenty of open fields which are classed as public places but it would and should be down to the dog owner/walker to decide whether or not it is appropriate to allow the dog off the lead for exercise. In these areas such as the walkway along the old railway line and on the Whammy, both in Knutton, I would suggest that more dog litter bins are placed in strategic points along the walk. Let us not forget that we are a nation of animal lovers and the majority of people act responsibly when out walking their pets. That said there will always be people with complete disregard for others and we should be punishing those people with fines for continuous breach of laws and regulations.

109: Is there a particular reason why controls regarding the persistent barking of dogs left outside all day has not been included?

111: Dogs should be allowed to go anywhere a child would go provides, THE DOG IS UNDER CONTROL.

117: We need more information as to where exactly the orders would apply. There needs to be more dog bins, not just in parks but along main roads to encourage dog owners to be responsible. The bins to be well maintained and regularly emptied which is not always the case.

120: I know most dog owners are responsible, but I can't tell you the number of times I have come home with my shoes covered in dog excrement. I love animals...all animals, and it's not the dog's fault, but the owner. Something needs to be done.

122: Read the recent article Orders put the bite on bad owners and initially was greatly heartened at the prospect of new legislation being approved to tackle unleashed dogs and also owners who allow, or actively encourage their dogs to foul public footpaths or communal grassed areas, making no effort to clean up and remove their pets mess to a suitable disposable point. For me the real problem is enforcement of such legislation without increasing the numbers of wardens or the provision of CCTV. Sadly many irresponsible individuals do not respond to clear signage. May I suggest that all signage needs to be large and bold and placed in a position that prevents vandalism. My own area needs to be designated a Dog Poo Hotspot, Reeves Avenue, Cross Heath and in particular the alleyway that joins Reeves Avenue to Upper Milehouse Lane. Dog faeces are constantly present and have to be cleaned up by the residents otherwise children and older persons have to dodge the mess which is often trodden in and walked along the tarmac. The size of some dog motions I leave to your imagination. My own feeling is that owners who commit the offence can only be identified in any serious numbers with the use of CCTV as often when an offence occurs no staff would be present and some offences are committed at night. At the time of writing the Alleyway walkway is covered with dog faeces. I am sure there are other neighbourhoods that are equally plagued with the same problem. I would be interested how many prosecutions there have been over the last twelve months. It concerns me, whilst wishing to remain optimistic regarding the implementation of new laws; I fear it will be a toothless tiger.

123: Legislation penalises responsible owners. Irresponsible owners would not comply anyway.

125: Read the recent article Orders put the bite on bad owners and initially was greatly heartened at the prospect of new legislation being approved to tackle unleashed dogs and also owners who allow, or actively encourage their dogs to foul public footpaths or communal grassed areas, making no effort to clean up and remove their pets mess to a suitable disposable point. For me the real problem is enforcement of such legislation without increasing the numbers of wardens or the provision of CCTV. Sadly many irresponsible individuals do not respond to clear signage. May I suggest that all signage needs to be large and bold and placed in a position that prevents vandalism. My own area needs to be designated a Dog Poo Hotspot, Reeves Avenue, Cross Heath and in particular the alleyway that joins Reeves Avenue to Upper Milehouse Lane. Dog faeces are constantly present and have to be cleaned up by the residents otherwise children and older persons have to dodge the mess which is often trodden in and walked along the tarmac. The size of some dog motions I leave to your imagination. My own feeling is that owners who commit the offence can only be identified in any serious numbers with the use of CCTV as often when the offence occurs no staff would be present and some offences are committed at night. At the time of writing the Alleyway walkway is covered with dog faeces. I am sure there are other neighbourhoods that are equally plagued with the same problem. I would be interested how many prosecutions there have been over the last twelve months. It concerns me, whilst wishing to remain optimistic regarding the implementation of new laws; I fear it will be a toothless tiger.

126: The cycle path in Knutton is like a public toilet hardly anyone cleans up after there dogs there. i live alongside it and see this all the time.

131: Red Street Community Centre. Could possibly do with more signs around areas to make general public more aware especially children playgrounds/ playing fields

137: It would have helped me in the completion of this questionnaire if the restrictions mentioned in 6/7 & 8 were included for reference. How would the various exclusions be monitored and enforced? Personally I think that general litter is a much more serious problem. There appear to be more dog litter bins provided than general litter bins.

142: Will not be happy if one of your "workers" asks me to put my dog on his leash, if he is running free, then he is with me under supervision and is not in a place where he will cause trouble. I poop and scoop. You need more bins to put dog excrement in. I feel that you are victimizing dog owners with these orders, and appreciate that it is the few bad owners that spoil it for the responsible owners. It will mainly be responsible owners that you hassle. Where is the money coming from for the extra policing in the exclusion areas? Why is money not being spent on opening public toilets for people? In fact what are you going to do if you see people urinating and worse in public areas? Where do walkers/fishermen/cyclists etc go now? What about them bagging and binning? Also children and teenagers? They drop litter, can be rude and abusive, parents do not control them, are they to be excluded from certain areas and put on a leash if needed? Get your act together and start spending time and money on things that are actually important and will help to get the country back on it's feet instead of taking it even lower than it is now!!! Wake up, pot holes, education, refuse, recycling.....there is more mess after they have collected the bags/boxes than before they start!

144: The Vast Majority of Dog Owners are responsible. Introducing Dogs on Leads in all Public Places across the Borough is in my opinion too Draconian a step. A far better way for me would be to harshly Fine (every time) people who allow their Dogs to Foul and also People who do not adequately control their Dogs.

145: More dog waste bins in Betley/Wrinehill. We have one down a dirt track but non along the pavement and only one litter bin in Wrinehill too, where the worst problems with fouling are.

159: The small minority of people spoil it for those of us who are responsible dog owners. I think there needs to be much tighter control on dog fowling as I never see anybody in this role and see a lot of dog mess around. It's a shame that dogs should be on leads all the time so there does need to be areas where they can be off but people with dogs that shouldn't be off the lead should be made to keep them on leads so that those people with well behaved dogs aren't penalised.

165: I live in Miles Green and often walk in Podmore Nature reserve and along the old railway track which runs from Thomas Boughey School to Bignall End. In both these places I often encounter dogs out with their owners who are running free and often jump up on myself or others who are with me. The dog owners do not seem bothered by this and just comment "It's ok - he's friendly". I am a dog lover but do not feel as though this 'jumping up' is acceptable. On occasions when I have said something {always politely}, I have had rude responses. I don't know if anything can be done about this.

166: I live in Fearn Ave Bradwell. I have a little puppy i take for a walk around the estate and I've never in my life seen so much dog muck. Someone let there dog do there mess on my drive the other day I had to get buckets of hot water to move it its a disgrace, I've got grandchildren I don't want them walking on it and bringing it in the bungalow. I took her down the crem park I started to walk on the big field there I put one foot on the grass and got back off as that was full of dog muck too and its a shame for the children who want to play there. It's a big problem and it needs sorting out..

167: The dog control put signs in my street some year ago they haven't worked we still have dog owners going through to the marsh from Grosvenor place ST5 0HS letting them poo all up the street it's terrible .please please come and fine them .they need caught

168: we are dog training classes and we are training my dog to come back to me.

169: I live in Bradwell and we are plagued by dog fouling. Often left at the entrance to the school and the pavements approaching the school and in the alleyways. A short walk of a couple of hundred yards brought me in contact with 9 or 10 'little piles'. Dog dirt is dangerous to children, both by infection and damage to shoes and clothes, it is trodden into the school by children and picked up on pram wheels, it transfers to fingers and then to mouths. Please help us to control these dirty people who care so little for their neighbours and local environment. Thank you for making this a priority.

171: Believe that dog fouling is a huge problem and not just about dogs being on a lead. The footpaths in my area suffer from large amounts of dog fouling and that is clearly an issue where dogs, are walked on leads not running free. I do not believe exclusions like this will help with this issue as people who, allow their dogs, to, foul and do not pick it up will do this whether their dog is on a lead or not. I am a regular visitor of Bathpool Park and feel that the exclusion zone is too much. I agree that it is an issue if dogs are, fouling on a sports pitch but is banning all dogs except on a lead the solution? I would suggest not. I think that this is a knee jerk reaction and would welcome open consultation (on site) so that officers could see the types of people who use the park. I could say that I have a problem with the bike riders who, use the paths, passing at great speed with little or no regard for pedestrians, but I am a tolerant person and it is not all, but a few. There are 2 sections in Bathpool park and in reality the far end towards Talke would be a much better option for dog walking, no sports pitch or play area but 2 huge grassed areas. However in my experience you, would have to be prepared for, your children to witness the disgusting behaviour taking place on the car park and in the bushes by the numerous individuals who seem to, have now taken over this complete section. So what is the solution? Ban all dogs except on a lead. Or perhaps deal with the issues taking place, on the other side of the park (not ignoring it despite it being reported to the police, and council on numerous occasions), and therefore create 2 sections to the park where dog lovers, walkers, bike riders and sports enthusiasts can all enjoy a valuable resource without alienating anyone from any side.

172: All off lead dogs should be the owners responsibility and under the owners control. off-lead pets need the opportunity to burn up excess energy. if not allowed to do so the dog may develop behaviour problems thus leading to potential more unwanted dogs in the borough. I support responsible dog ownership and cleaning up fouling is very important .even though more bins aren't planned surely this should be supported by supplying more bins. Off lead exercise areas should be well sign posted as should dogs on lead signs.

DRAFT DOG CONTROL ORDERS**The Clean Neighbourhoods and Environment Act 2005****The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 (S.I.2006/1059)
The Fouling of Land by Dogs (Borough of Newcastle-under-Lyme) Order 2013**

The Borough Council of Newcastle-under-Lyme hereby makes the following Order:

1. This Order comes into force on **xxxxxx**
2. This Order applies to the land specified in the Schedule

Offence

- 3.— (1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless:-
 - (a) he has a reasonable excuse for failing to do so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
(2) Nothing in this article applies to a person who:-
 - (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - (b) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.
(3) For the purposes of this article:-
 - (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
 - (b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
 - (c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;
 - (d) each of the following is a "prescribed charity":
 - (i) Dogs for the Disabled (registered charity number 700454);
 - (ii) Support Dogs (registered charity number 1088281);
 - (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Dated this the **xx** day of **xxxx** 2013

GIVEN UNDER THE COMMON SEAL)
of the BOROUGH COUNCIL OF)
NEWCASTLE-UNDER-LYME this)
day of **xxxxxxxxxxxxxxxxxx** 2013)
in the presence of:-)

Councillor

Authorised Signatory

SCHEDULE

[Specification/description of land, or lands, to which the Order applies]

This Order applies to:

1. All land within the boundaries of Newcastle-under-Lyme Borough which is open to the air (which includes land that is covered but open to the air on at least one side) and to which the public are entitled or permitted to have access (with or without payment)
2. Exemptions from the description in paragraph 1 above are:
 - (a) Forestry Commission land, or
 - (b) Land designated by the Secretary of State as land which is not subject to the Order.

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 (S.I.2006/1059)
The Dogs on Leads (Borough of Newcastle-under-Lyme) Order 2013

The Borough Council of Newcastle-under-Lyme hereby makes the following Order:

1. This Order comes into force on **xxxxxxxx**
2. This Order applies to the land specified in the Schedule

Offence

- 3.— (1) A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies he does not keep the dog on a lead of not more than 2 metres [6ft 6 inches] in length, unless:-
 - (a) he has a reasonable excuse for failing to do so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
(2) For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Dated this the **xx** day of **xxxx** 2013

GIVEN UNDER THE COMMON SEAL)
of the BOROUGH COUNCIL OF)
NEWCASTLE-UNDER-LYME this)
day of **xxxxxxxxxxxxxxxxxxxx** 2013)
in the presence of:-)

Councillor

Authorised Signatory

SCHEDULE

[Specification/description of land, or lands, to which the Order applies]

This order applies to all land which is within the boundaries of Newcastle-under-Lyme Borough Council and which is:-

- (a) Crematorium, Church yards and cemeteries signed at its entrance(s) as a "dogs on leads area" (whether the sign uses those particular words or words and/or symbols having like effect).
- (b) Formal Gardens signed at its entrance(s) as a "dogs on leads area" (whether the sign uses those particular words or words and/or symbols having like effect).
- (c) Marked out sports pitches.
- (d) Unfenced children's play equipment and a portion of the playing fields extending 20 metres in all directions from it.

- (e) Fenced/enclosed school grounds (including school sports pitches) signed at its entrance(s) as a "Dogs on leads" area (whether the sign uses those particular words or words and/or symbols having like effect).
- (f) Fenced/enclosed portions of Apedale Country Park signed at its entrance(s) as a "dogs on leads area" (whether the sign uses those particular words or words and/or symbols having like effect) which are designated for wildlife conservation.
- (g) The northern portion of Bathpool Park, from its entrance & car park at Boathorse Road, along the main access path which runs: from the car park at Boathorse Road; adjacent to the children's play area: and rugby pitch; to the bridge at the foot of the ski slope, by the reservoir embankment.
- (h) Open space owned by parish and town councils signed at its entrance(s) as a "dogs on leads area" (whether the sign uses those particular words or words and/or symbols having like effect).

The Clean Neighbourhoods and Environment Act 2005**The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 (S.I.2006/1059)
The Dogs on Leads by Direction (Borough of Newcastle-under-Lyme) Order 2013**

The Borough Council of Newcastle-under-Lyme (in this Order called "the Authority") hereby makes the following Order:

1. This Order comes into force on **1st day of April 2013**.
2. This Order applies to the land specified in the Schedule
3. In this Order "an authorised officer of the Authority" means an employee of the Authority who is authorised in writing by the Authority for the purpose of giving directions under this Order.

Offence

4.— (1) A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies, he does not comply with a direction given him by an authorised officer of the Authority to put and keep the dog on a lead of not more than 2 metres [6ft 6 inches] in length, unless:-

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) For the purposes of this article:

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- (b) an authorised officer of the Authority may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person [on any land to which this Order applies] or the worrying or disturbance of any animal or bird.

Penalty

5. A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Dated this the **xx** day of **xxxx** 2013

GIVEN UNDER THE COMMON SEAL)
of the BOROUGH COUNCIL OF)
NEWCASTLE-UNDER-LYME this)
day of **xxxxxxxxxxxxxxxxxx** 2013)
in the presence of:)

Councillor

Authorised Signatory

SCHEDULE

[Specification/description of land, or lands, to which the Order applies]

This Order applies to

1. All land within the boundaries of Newcastle-under-Lyme Borough which is open to the air (which includes land that is covered but open to the air on at least one side) and to which the public are entitled or permitted to have access (with or without payment)
2. Exemptions from the description in paragraph 1 above are –
 - (a) Forestry Commission land, or
 - (b) Land designated by the Secretary of State as land which is not subject to the Order.

The Clean Neighbourhoods and Environment Act 2005**The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 (S.I.2006/1059)
The Dogs Exclusion (Borough of Newcastle-under-Lyme) Order 2013**

The Borough Council of Newcastle-under-Lyme hereby makes the following Order:

1. This Order comes into force on **xxxxx**
2. This Order applies to the land specified in the Schedule

Offence

3.— (1) A person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on, any land to which this Order applies unless:-

- (a) he has a reasonable excuse for doing so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

(2) Nothing in this article applies to a person who:-

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- (b) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
- (c) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

(3) For the purposes of this article:-

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog; and
- (b) each of the following is a "prescribed charity":-

- (i) Dogs for the Disabled (registered charity number 700454);
- (ii) Support Dogs (registered charity number 1088281);
- (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Dated this the **xx** day of **xxxx** 2013

GIVEN UNDER THE COMMON SEAL)

of the BOROUGH COUNCIL OF)

NEWCASTLE-UNDER-LYME this)

day of **1st day of April 2013 1st day of April 2013xxxxx 2013**)

in the presence of:-)

Councillor

Authorised Signatory

SCHEDULE

[Specification/description of land, or lands, to which the Order applies]

This order applies to all land which is within the boundaries of Newcastle-under-Lyme Borough Council and which is

- (a) Fenced/enclosed, equipped children's play areas signed at its entrance(s) as a "dog exclusion area" which are designated and marked for children's play;
- (b) Fenced/enclosed games areas i.e. tennis and ball courts, multisport areas, skate parks;
- (c) The grassed portion of all bowling greens;
- (d) Fenced/enclosed school grounds (including school sports pitches) signed at its entrance(s) as a "dog exclusion area"
- (e) Fenced/enclosed portions of Apedale Country Park signed at its entrance(s) as a "dog exclusion area" which are designated for wildlife conservation
- (f) Open space owned by parish and town councils signed at its entrance(s) as a "dog exclusion area".

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Agenda Item 6

ENVIRONMENTAL PROTECTION ACT 1990 SECTION 81(4) OUTCOME OF PROSECUTION PROCEEDINGS AGAINST MRS JULIE GRIFFITHS, 123 CHURCH STREET, BUTT LANE

Submitted by: (Environmental Protection Team Manager – Darren Walters)

Portfolio: Environmental Health

Ward(s) affected: Butt Lane

Purpose of the Report

To advise Committee of the outcome of legal proceedings taken by the Council regarding a breach of a noise abatement notice.

Recommendations

- (a) That the report be received.
- (b) To resolve that the Council's Communications section report details of the case in the next available edition of the Council's Reporter Newspaper.

Reasons

To act as deterrent to the creation of noise nuisance within the Borough and to raise the profile of the range of work carried out by the Environmental Health Division.

1. Background

1.1 At a meeting of the public protection Committee held on 3 December 2012, the Public Protection Committee resolved to prosecute Mrs Julie Griffiths for the breach of a noise abatement notice served under the provisions of Part III of the Environmental Protection Act 1990. The Committee were also advised that in the event of a successful prosecution, that the Council would make an application to the Court for a Criminal Anti Social Behaviour Order to secure long lasting abatement of noise nuisance for affected residents (Minute 8 of 3 December 2012).

2. Issues

2.1 At a court hearing held on 19 December 2012, Magistrates' sitting at Stafford Magistrates' Court accepted a guilty plea from Mrs Griffiths in respect of 47 occasions of noise nuisance caused by shouting and screaming. Mrs Griffiths was subsequently fined £500 (maximum fine of £5000 for each offence) with a £15 victim surcharge and £250 costs awarded to the Council. The Chair of the Magistrates' bench advised Mrs Griffiths that should she be brought before the bench again for similar offences, that on conviction she would be likely to be fined a minimum of £500 for each single occurrence of noise nuisance.

2.2 Following the conviction, an immediate application was made for a Criminal Anti Social Behaviour Order (CRASBO). This was granted by the court for a period of five years and prohibits Mrs Griffiths from engaging in behaviour or conduct likely to cause nuisance, disturbance, alarm or distress; create audible noise in neighbouring properties or to shout, scream or bang on internal walls. Additionally she cannot contact or communicate with named individuals. Should Mrs Griffiths breach the CRASBO she risks arrest and on conviction, imprisonment for upto five years.

- 2.3 This case and its outcome has since received significant press coverage in the local and national newspapers and has generated significant public interest as a result.
- 2.4 As a result of this action, partnership working between the Council and the Police has again been shown to produce significant benefits for the residents of the Borough. It is also hoped that this action will provide long lasting relief for local residents and secure a positive change in behaviour without further need for intervention by either the police or council.

3. **Reasons for Preferred Solution**

- 3.1 The action taken is proportionate to the perceived environmental harm caused and is in accordance with the Environmental Protection Enforcement Policy and government policy regarding environmental crime enforcement and the Governments Better Regulation agenda.

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

- 4.1 The action taken achieves the following priorities within the Sustainable Community Strategy and the Council's corporate priorities:
 - creating a cleaner, safer and sustainable Borough
 - creating a Borough of opportunity

5. **Legal and Statutory Implications**

- 5.1 The Environmental Protection Act 1990 provides a discretionary power to the Council to take the action reported and creates the offence.

6. **Financial and Resource Implications**

- 6.1 The full costs incurred by the Council, in taking this action have not been recovered and a partial costs awarded of £250 has been made by the Court.
 - 6.2 Officers will be meeting with the Head of Legal Services to discuss how the Council can seek to recover its full costs and minimise costs to the public purse in any future legal action as provided for by the Prosecution of Offences Act 1985 s.18(1) and Rule 76.5 Criminal Procedure Rules 2011.

7. **Background Papers**

Public Protection Committee Report 3rd December 2012 - Prosecution of Mrs JG for breach of a statutory noise nuisance abatement notice
Prosecution case file (Held by Legal Services)

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 Littering offences within the borough.

Recommendation

That the report be received.

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 advised with regard to the appropriate legislation and their details were then recorded by an enforcement officer. 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 at Staffordshire Magistrates Court they received the following fines and costs with a £15 victim surcharge (vs):

Natasha Cooper	Cauldon Avenue	£150 fine, £130 costs, £15 vs
Aaron Allan	Albermarle Road	£150 fine, £130 costs, £15 vs
Amy Gibson	Hodgkinson Street	£150 fine, £130 costs, £15 vs
Richard Manning	Springfield Road	£150 fine, £130 costs, £15 vs
Peter Lindop	Peel Street	£150 fine, £130 costs, £15 vs
G Poole	Franklin Road	£35 fine, £130 costs, £15 vs

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

3.1 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 of enforcement.

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.

INCREASE OF FEES

Submitted by: Head of Central Services

Purpose

To obtain approval for the proposed variation of fees relating to Private Hire Vehicles and Hackney Carriages and to inform the Committee of the need to advertise the proposed increases in the local press.

1. Background

1.1 Members will recall that variations of fees require the approval of this committee. Subject to no objections being received it is proposed that the proposed variations will become effective from 1 April 2012 or as soon as possible thereafter. The proposals are attached at Appendix A to your agenda.

2. Issues

2.1 Section 70 Local Government (Miscellaneous Provisions) Act 1976 provides that "a Council may charge such fees for the grant of a vehicle and operators licence as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part:

- (a) the reasonable cost of the carrying out by or on behalf of the council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
- (b) the reasonable cost of providing hackney carriage stands; and
- (c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles

2.2 When a Council vary a table of fares, they must amongst other things publish it in a local newspaper circulating in its area and specifying the period, which shall not be less than 28 days from the date of publication of the notice within which and the manner in which objections to the variation can be made.

2.3 If no objections are received or if all objections made are withdrawn then the variation will come into operation on the expiration of the period specified in the notice or the date of withdrawal of the objections which ever date is the latter.

2.4 If there remain outstanding objections then the Council must set a further date not later than 2 months after first specified date, on which the variation shall come into force with or without modification as decided by the Council after considering the objections.

3. Options

3.1 The Committee can only act in accordance with the legislation which governs the variation of fees.

4. Proposal

4.1 That the Committee approve the proposed variation of fees and that the proposals be advertised in accordance with the Act.

5. Reasons for the Proposal

5.1 To continue to ensure the licensing function operates on a cost recovery basis.

6. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

6.1 Creating a Borough of Opportunity

- People who are able to work can do so and there is improved prosperity.

7. Financial Implications

7.1 Failure to vary the fees could affect the Council's ability to provide an effective licensing function.

8. Major Risks

None.

9. Legal and Statutory Implications

9.1 Failure to follow the correct procedure before implementing the increases could leave the Council open to challenge in the Courts and with the inability to legally increase fees

10. Equality Impact Assessment

There are none.

11. Key Decision Information

Not applicable.

Proposed increase of fees for the Licensing of Hackney carriage and Private Hire Vehicles, drivers ,and Operators for the year 2013 to 2014.

Private Hire Operators Licence (3years) £82 per Vehicle to a Maximum of £4100 (50 vehicles)	an increase of £2 + 2.5%
Private Hire Vehicle Licence (1 year) £225	an increase of £5 + 2.27%
Private Hire Vehicle Licence (1year) 8 seater £235	an increase of £5 + 2.1%
Private Hire Drivers Licence (3 years) £184	an increase of £4 + 2.2%
Hackney Carriage Drivers Licence (3 Years) £184	an increase of £4 + 2.2%
Hackney Carriage Vehicle Licence (1 year) £235	an increase of £5 + 2.1%
Vehicle retest fee.£41	an increase of £1 + 2.5%
Failure to attend for Vehicle test £41	an increase of £1 + 2.5%

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Agenda Item 11

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

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Agenda Item 12

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Agenda Item 14

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